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ABSTRACT

Designed to give students in grades 5 through 12 information about the Minnesota court system, this document provides teachers and students with the necessary background materials to study Minnesota's courts. Rather than an introduction to all law, the document is limited to the function and operation of the courts. The curricular materials cover 17 topics: (1) conflict; (2) solving conflict today; (3) "Fairness and Freedom" the video; (4) Minnesota courts; (5) people in the court; (6) choosing the judge; (7) the Minnesota jury system; (8) Voir dire process; (9) You Decide: a jury simulation; (10) conciliation court; (11) juvenile justice; (12) mini-mock trials; (13) appeals; (14) mediation; (15) punishment; (16) sentencing; and (17) a question of life or death. A copy of the Minnesota Constitution also is provided. (RJC)

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Fairness & Freedom

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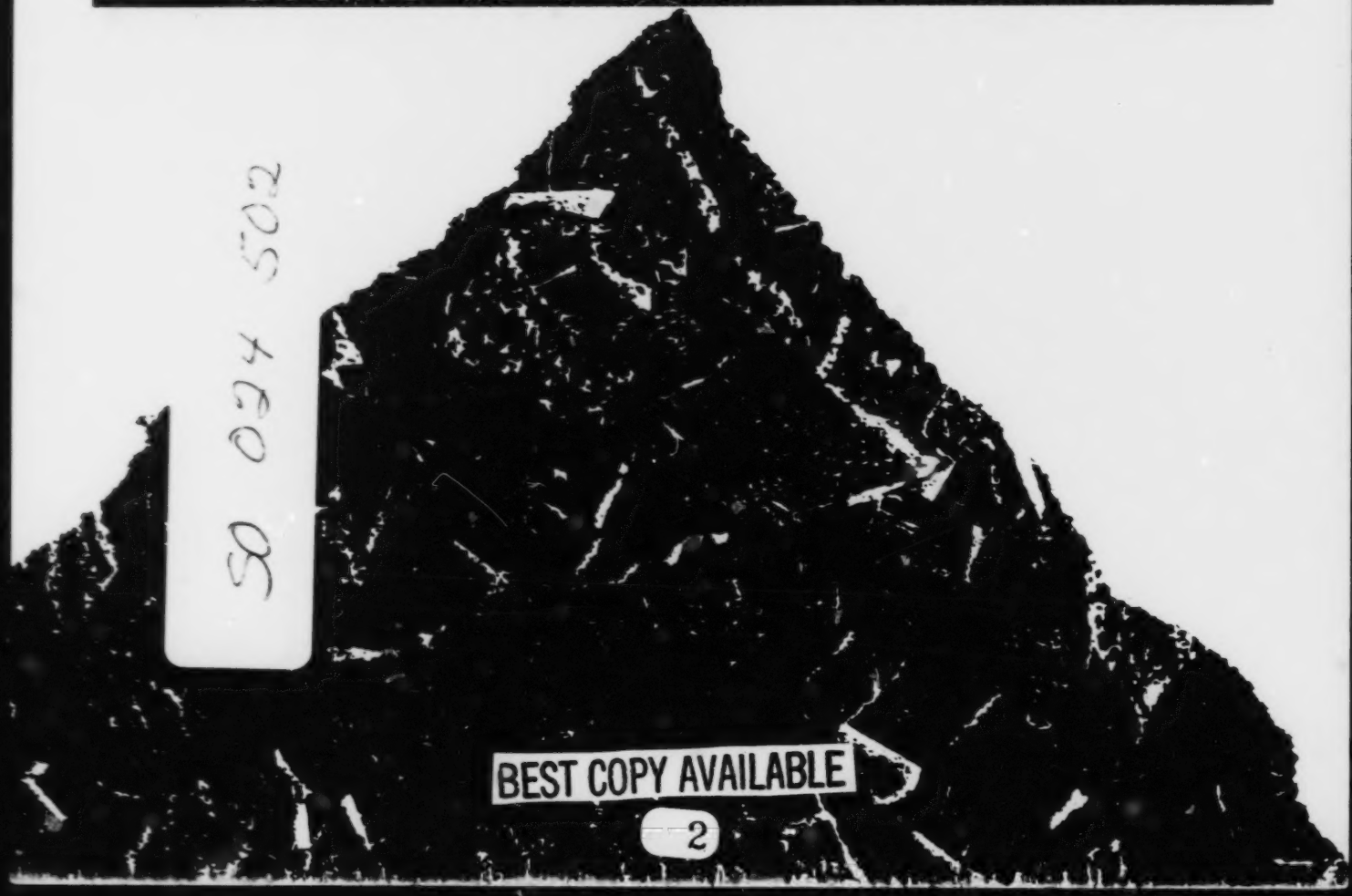

SO 024 502

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Fairness & Freedom

Courts as a Forum for Justice

Minnesota Center for Community Legal Education
Hamline University School of Law

Introduction

The following lessons are designed to provide students in Minnesota classrooms with an education about the Minnesota court system. Rather than attempt to be an introduction to all law, as was the temptation, this publication is limited to the function and operation of the courts. Increasingly, citizens find themselves solving problems with the aid of the court system. However, more often than not, their first court experience is also their first educational experience regarding the courts. Through these lessons, students will enter the adult world armed with basic knowledge about the operation of the courts so that they are educated court consumers.

This curriculum is designed for use in grades 5 through 12. Please feel free to copy the lessons to use is your classroom or share with a colleague. We ask however that the original authors be given credit when appropriate and that the use be limited to the classroom.

As always, this publication is the result of many hours of effort by many people in our law-related education family. I am very happy to thank these individuals for their hard work. JoEllen Ambrose, who served as Co-Director of the Center for approximately one year, wrote many of the lessons. Her diligence was instrumental to the success of this effort. Deb Berghoff, the Center's Assistant Director, was the computer word processing wizard behind the publication. She sacrificed much time and energy to make the lessons user friendly. Also, the efforts of Kitty Atkins, Program Coordinator for the Center, and Brian Johnson, Hamline Computing Services, must be applauded. Without these people, this curriculum would still be sitting in a box under my desk. I am grateful for their commitment to the Center and to the teachers we serve.

And finally, thank you for joining the community of law-related education. We hope that you find the lessons helpful and that you will share suggestions for improvements and additions with us.

Jennifer D. Bloom
Director
Minnesota Center for Community Legal Education

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Fairness & Freedom

Courts as a Forum for Justice

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Minnesota Constitution

Conflict

The purpose of this introductory lesson is for students to understand conflicts in society, both the causes of conflicts and historical methods of resolving conflicts. This will prepare them to begin learning about the role of the court system in resolving conflict.

Students will:

1. Understand and define conflict and give examples.
2. Understand historical conflict resolution methods.
3. Understand causes of conflict.

Materials needed: Copies of **Student Handout: YESTERDAY'S WAYS**

Time needed: 1 class period

Grade level: Grades 5-12

Procedure:

1. Give an example of an everyday type of conflict we all experience or use a cartoon overhead illustrating a conflict to focus the discussion. Ask students to define conflict. What are essential characteristics of a conflict? (Involves more than one person; opposing goals, interests, viewpoints; need to resolve; etc.). Remind students that conflict is natural and inevitable. Tell them that conflict can often be constructive if it is used to improve our institutions and supports individual growth.

2. Ask students to brainstorm a list of conflicts that might arise in their homes, schools, communities, and the world. Looking at this list, ask them to identify and explain the causes of the disputes (for example, competition for limited resources, aggressive nature of human beings, misinformation, cultural influence, semantics, habit, clashes of values, resistance to change).

3. Discuss historical methods of resolving conflict. Ask students to read the **Student Handout: YESTERDAY'S WAYS.** Using the *Black's Law Dictionary* definition of fairness, explore the fairness of each method.

> ***Black's definition of fairness***
> ***Having the qualities of impartiality and honesty; free from prejudice, favoritism, and self-interest. Just, equitable; even-handed; equal, as between conflicting interests.***

Procedure cont.

4. Tell students that a method of resolving conflict might be effective, that is to say the conflict may be over, but the solution might be very unfair. What happens when this is the case?

5. Ask students to analyze their own ways of resolving conflict. Are any of them similar to the historical methods? Are they effective? Why or why not?

Student Handout: YESTERDAY'S WAYS

Today we are accustomed to looking to the courts to help settle conflicts in our society. But it wasn't always that way. Throughout history, we have used a variety of conflict resolution methods including the following.

Blood Feud - "An eye for an eye"

Many societies have defined justice as retribution or getting even by taking "an eye for an eye." In other words, if Mack and John are arguing and Mack hits John, it would only be fair for John to hit Mack back. But what if Mack kills John? What would be fair then?

Under this method, it would seem logical that there should be a life for a life. For justice to prevail, John's friends or family must kill Mack. If John's friend, Ron, kills Mack, then Mack's friend, Jack, would have to kill Ron. And so on. What is the result? Many people die, and no one is certain if the initial argument is settled. This situation, a series of murders for revenge, is called a blood feud.

Trial by Combat - "Might makes right"

Another method of conflict resolution took place during the Middle Ages. Instead of a courtroom to determine right from wrong, the battle for truth was fought through arranged fights between knights. These fights would settle arguments between kings, earls, barons and counts as well as determine guilt for a crime.

Each knight would represent a party in the conflict. As the combat began, they would charge at each other while riding armored horses. Swinging lances and maces, each knight tried to knock the other down or kill his horse. On the ground, the knights would fight with swords and shields until these weapons were too heavy to carry. Dropping their shields, daggers were drawn and the fight continued until one knight died or a plea of mercy was accepted. Either way, the decision was final with the strongest knight winning the argument.

Do we ever use a similar method today?

Trial by Ordeal - "God protects the innocent"

Another method to settle arguments used in the past was trial by ordeal. The person accused of wrongdoing was required to prove innocence by enduring great pain without getting hurt. For example, the accused would have to carry red hot metal or pull a ring from a pot of boiling water. Because God was personally involved in the justice system and would protect the innocent, people believed that an innocent person would be able to stand incredible physical pain. If they could not, they were guilty.

Trial by Oath - "A swearing contest"

An ancient Anglo-Saxon law states that as "a matter of supreme importance every man shall abide carefully by his oath and pledge." Failing to tell the truth or breaking a promise would result in horrible consequences: loss of property, crops, animals, or death. Since a person's word was so valuable, crimes could be tried through the swearing of oaths.

Solving conflict today

This lesson will provide students with the opportunity to explore conflicts that exist today and identify ways in which to resolve the conflicts. Students will understand that certain types of conflict are best settled in court where the court's purpose is to administer justice (to find out the truth of things) and to settle conflicts in a fair and just way.

Students will:

1. Demonstrate a variety of methods for resolving conflicts.
2. Know which methods are acceptable in our culture.
3. Evaluate methods, understanding the role of the court system in resolving conflict.
4. Identify the conflicts best resolved through the court system.

Materials needed: Copies of **Student Handout: HE SAID, SHE DID, I WANT...,** **Student Handout: CONFLICTS IN THE NEWS**

Time needed: 1 class period

Grade level: Grades 5-12

Procedure:

1. Explain that today's activity will give students a chance to examine conflict situations and begin to understand when courts should play a role in helping people resolve conflicts.

2. Divide students into groups of three or four and ask them to analyze a conflict scenario on **Student Handout: HE SAID, SHE DID, I WANT....** Each group should answer the following questions:

- **A.** Who are the people involved?
- **B.** What is the conflict about?
- **C.** What does each person want?
- **D.** What methods or techniques could be used to resolve the conflict?
- **E.** Which method does your group recommend? Why?

3. Ask each group to summarize their conclusions. List on board the type of conflict (i.e. neighborhood noise), people involved (i.e. neighbor/neighbor) and methods that might be used to help resolve the conflict (i.e. compromise, fighting, having a third party make the decision, voting, chance decision-making like a flip of a coin or draw from a hat, postponing the decision, or talking through the problem to understand different points of view).

Procedure cont.

4. Discuss the methods of conflict resolution most often used in the United States. These include:
   1. ***Negotiation:*** the disagreeing parties resolve the conflict through discussion and resulting agreement
   2. ***Mediation:*** a third party who is not involved in the dispute assists the two disagreeing parties toward resolution
   3. ***Arbitration:*** a third party who is not involved in the dispute hears the different sides and decides what will happen
   4. ***Adjudication:*** a judge in a court hears the evidence and decides the case

   Ask students to identify the features of a good dispute resolution process. These might include:

   Δ certainty of rules
   Δ finality
   Δ flexibility
   Δ participation
   Δ simplicity
   Δ public respect
   Δ easy access
   Δ loser feels process was fair
   Δ role of truth
   Δ rules developed by disagreeing parties
   Δ pre-established system

5. Ask students to give examples of each type.

6. Ask students to identify what types of conflicts are best resolved in court? (Problems dealing with the law, problems that are complex enough to warrant court time.) What is it about courts that make it a good place to resolve certain conflicts? (parties must appear, goal of court is to have a fair result, every one must use same rules, fair court procedures, court can award damages, due process, innocent until proven guilty)

7. Using the **Student Handout: CONFLICTS IN THE NEWS** have students go through the newspaper looking for examples of disputes, picking one to analyze and discuss with the class. Students should answer the following:
   - **A.** Who are the parties to the conflict (people involved)?
   - **B.** What is the conflict about according to the article?
   - **C.** What additional information would be helpful?
   - **D.** What does each person want?
   - **E.** What techniques were used, are being used, or might be used to resolve the dispute?

8. Focusing on news stories about court cases, ask students to explain why the dispute is before the court and why other methods would be less effective? Point out to students that people usually do not resort to the courts unless other methods have failed.

Student Handout: HE SAID, SHE DID, I WANT...

Analyze each scenario by answering the following questions:

A. Who are the people involved in the conflict?
B. What is the conflict about?
C. What does each person want?
D. What methods or techniques could be used to resolve the conflict? Brainstorm a variety of methods.
E. Which method does your group recommend? Why?

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1. Two boys who were good friends earned quite a lot of money in December and January shovelling the driveways in their neighborhood. Both boys had to work hard to keep all of the driveways clear. Near the end of January, one of the boys told the other that he wanted to quit. The second boy did not want to quit, and couldn't think of anyone else who would be available to work with him if his friend refused to continue.

2. Diane is against U.S. policy in Central America and wore to school a sweatshirt with a slogan expressing her dissatisfaction. Her first hour teacher sent her to the principal's office and Diane was asked to go home and change clothes. If she refused she would be suspended from school. Diane believes she has a right to express her opinions in school. The principal is concerned that the shirt will distract other students from their schoolwork.

3. Jessica wants to redecorate her room by hanging posters on all the walls, and even some on the ceiling. Her father thinks that makes the room look cluttered, and that using either pins or tape will damage the walls.

4. The Anderson family and the Jones family live next door to each other. A large oak tree in the Anderson yard has branches overhanging the Jones' garage. Mr. Jones thinks the tree has oak wilt and wants Mr. Anderson to cut back the branches of the tree. Mr. Anderson insists the tree is healthy.

Student Handout: HE SAID, SHE DID, I WANT... cont.

5. A famous baseball player was photographed in his new sports car. The car manufacturer used the picture for a series of magazine ads. The baseball player says they shouldn't have used the picture without paying him for its use. The manufacturing company says that since the ad does not say the player is endorsing the car, his rights have not been violated.

6. While Chris and Sheri were dating, he gave her $100 to help her pay rent. After they broke up, Chris asked Sheri for the $100 he had loaned her. Sheri said the money was a gift and she owed Chris nothing.

7. Dan, who is sixteen, bought a $150 car stereo at a local discount store. A month later, the stereo quit working. When he returned the car stereo to the store, the manager showed him a small sign near the display that said, in small print, "No warranties on electronic equipment valued less than $200.00."

8. Mr. Smith slipped on the ice in front of Parker's Convenience Store and broke his leg. He spent three days in the hospital and missed ten days of work. He said the accident was Mr. Parker's fault because the ice hadn't been cleared in front of the store and Mr. Parker should have to pay the hospital bills and lost wages. Mr. Parker said there were patches of ice on the sidewalks all over town and that pedestrians had the responsibility to wear proper footwear and watch out for icy spots.

9. There are three teenagers in the Carlson family and all of their friends like to spend time at the Carlson's home, especially during summer vacation. Needless to say there is always lots of activity and frequently lots of noise in and around the house. The Carlson's neighbor is a nurse who works the night shift and needs to sleep during the day. She says she cannot sleep when there is so much noise coming from next door.

10. Jake had a few beers while watching football at a friend's house. On his way home he was stopped by a police officer. The officer asked Jake if he realized he went through a red light. Jake was sure the light was yellow and refused to answer the officer's questions.

Student Handout: CONFLICTS IN THE NEWS

Select a news story about a conflict. Answer the following questions and be prepared to discuss your answers with the class.

A. Who are the parties involved?

B. What is the conflict about according to the article?

C. What additional information would be helpful?

D. What does each person want?

E. What techniques were used, are being used, or might be used to resolve the dispute?

Fairness and Freedom: the video

The complexity and mystique of the court system exists to insure that all parties brought to the court system receive fair treatment.

This videotape, ***"Fairness and Freedom"***, will explain the court system through a hypothetical case involving careless driving. Much of the information presented in the videotape is considered in more detail in the lessons that follow. The videotape might be used as an introduction to the court system or as a way of reviewing information learned through this curriculum.

This curriculum is not dependent on the use of the videotape.

Students will:

1. Understand the function of the courts in resolving conflict.
2. Know the difference between criminal and civil cases.
3. Understand the steps in a trial.

Materials needed: Copy of ***"Fairness and Freedom,"*** video available from the Minnesota Supreme Court or the Minnesota Center for Community Legal Education.

Time needed: 1 class period

Grade level: Grades 5-12

Procedure:

1. Begin the lesson by asking students to brainstorm all that they know about courts and trials. Record for later reference.

2. Ask students to identify questions that they have.

3. Play videotape. The program runs appoximately 25 minutes.

4. Near the end of the videotape, the jury for the trial will retire to decide a verdict. This presents an excellent opportunity to stop the tape and ask students to vote guilty or not guilty. Discuss the reasons for their verdicts.

5. Complete the videotape. At the end of the program, the defendant will be served with a summons and complaint for another trial. At this point, it is explained to the defendant that he completed the criminal trial but is now subject to a civil lawsuit. Take this opportunity to explain to the students the difference between criminal and civil trials.

Procedure cont.

Criminal trials result when a person has been accused of criminal behavior by an agent of the state (city attorney, county attorney, attorney general). Criminal behavior means that the person is charged with breaking a law that is a crime. The Minnesota Legislature writes many laws every year. Only a few of these laws result in criminal action when they are not obeyed. Characteristics of a criminal statute include: state agent will prosecute (instead of a citizen), possible penalties include jail or prison time, and the statute calls the behavior a crime.

The same behavior or incident might result in both a criminal trial and a civil trial. The state will charge the defendant with a crime and will seek a fine or imprisonment (***criminal case***), and the injured party will sue the defendant for damages (***civil case***). In the case in the video, the defendant is charged with the crime of reckless driving and is charged with destroying the couple's property.

6. Review the brainstorm and student questions. Was any of their knowledge incorrect? Were any of the questions answered?

Minnesota courts

The world of the courtroom is familiar to most people, if not by personal experience, then certainly from television or movies. Yet for most students there exists a gap between the judicial system portrayed on television and the actual workings of the court system. This lesson will introduce students to Minnesota courts - the types of courts that make up our state court system, their purpose, function and how the courts fit together. The goal is to bridge the gap so that students better understand the realities of the legal system.

Students will:

1. Identify different levels of courts in the Minnesota state court system and the kinds of cases handled by each court.
2. Develop an understanding of the relationships of the various courts.
3. Understand how legal and judicial decisions are made.

Materials needed: Copies of **Student Reading: MINNESOTA COURT SYSTEM, Student Handout: SO YOU'RE GOING TO COURT - BUT WHICH ONE?,** and Overhead of **How the Minnesota Court System is Structured**

Time needed: 1 class period

Grade level: Grades 7-12

Procedure:

1. Present students with the following hypotheticals asking them to consider what court in Minnesota would hear each case.

A. The stereo you just bought needs major repair. It is still covered under warranty, but the seller won't fix it. You take the seller to court. ***(conciliation court)***

B. You've just been arrested and charged with stealing a car. Your trial is scheduled for next month. ***(district court)***

C. You've been found guilty of car theft but you think there was a mistake at your trial. You never knew you had the right to an attorney. ***(appellate court)***

2. Have students read handout on **MINNESOTA COURT SYSTEM.** Review the different levels of courts in Minnesota and the types of cases they hear. Refer to overhead on **How the Minnesota Court System is Structured** in the discussion.

Procedure cont.

3. Students can complete individually or in small groups the exercise, **SO YOU'RE GOING TO COURT - BUT WHICH ONE?**

4. Label courts on chalk board or bulletin board. Ask students to identify the situations from their exercise that would be heard at each court. Students could put key words or descriptors of the case next to the court's label.

5. ***Follow-up:*** Throughout the unit, continue adding new types of cases to the chart. Students could look to newspapers, television and movies as sources. Tell students that the federal court system is different from the state court system. The types of cases heard by federal courts include cases involving a federal law, such as a federal kidnapping law, a question of interpreting the United States Constitution, such as free speech, and lawsuits between citizens of two states that involve more than $50,000. Federal judges are appointed for life by the president and they sit in the federal district court (trial court), the Eighth Circuit Court of Appeals (Minnesota is part of the Eighth Circuit), and the United States Supreme Court.

Student Reading: MINNESOTA COURT SYSTEM

Introduction

The Minnesota Constitution establishes three divisions or branches of state government. The legislative branch (house of representatives, senate) is responsible for making new laws, while the executive branch (the governor) is responsible for enforcing laws. The judicial branch has a special role. It is responsible for interpreting the laws in cases that are brought before it.

Article Six of the Minnesota Constitution establishes the judiciary, another name for the courts. The judicial branch, as part of its function, serves as the final upholder of the Constitution. This means that the courts guarantee that challenged laws do not violate the Constitution.

The courts in Minnesota have changed quite a bit since the first judge started working in the Northwest Territory in 1838. Courts didn't even have courthouses then - the first was built in Stillwater in 1847. Instead, judges held court in stores, churches, offices - wherever a meeting room was available. Judges and lawyers traveled extensively to try cases. While judges today still "ride circuit" in rural areas to hear cases in various counties, they don't have to travel hundreds of miles by canoe, horseback, even by foot, as some of the pioneer judges did.

Today the Minnesota court system has evolved into a system of justice that is sophisticated and complex. It consists of different levels of courts serving different functions and over 250 judges who hear over 250,000 cases a year (excluding traffic offenses). Throughout the years our court system, and indeed the law itself, has been called upon to constantly adapt to meet ever-changing needs and conditions of society, while still adhering to the high ideals of the Constitution.

Overview

Minnesota has two levels of state courts: ***district court*** and the ***appellate courts***. District court is a trial court hearing civil and criminal cases in its own judicial district. It also includes special divisions such as juvenile court, family court, probate court, traffic court and conciliation court. At the appellate or "appeals" level, Minnesota has a Court of Appeals and the Supreme Court. Following are descriptions of each type of court found in the Minnesota court system.

District Court

The district court, also known as ***trial court***, is the court of general jurisdiction in Minnesota - the court that has the power to hear any civil or criminal case.

The "district" court gets its name from the ten judicial districts that divide the state. The districts range in size from districts with only one county in the Twin Cities to a district comprised of as many as 17 counties in the northwest area of the state. In large districts, the judges sometimes "ride circuit" and travel from county to county to hear cases. (See Judicial Districts Map.)

Each judicial district has three or more judges, with the greatest number in Hennepin County. There are more than 200 district court judges in the state. District court judges are elected to six year terms, vacancies are filled by governor's appointment. Each district has a chief judge and an assistant chief judge as well as a district administrator who oversees the management of the courts.

There are more than 40,000 cases filed in Minnesota district courts each year. These cases include civil, criminal, family, probate, juvenile, and traffic matters.

Student Reading: MINNESOTA COURT SYSTEM cont.

Specialized Divisions in District Court

Juvenile Court

The juvenile division handles proceedings concerning people under the age of eighteen who are alleged to be delinquent, neglected, dependent, or traffic offenders. The court also has authority to terminate a parent's custody or rights to a child and appoint a legal guardian for a child. A person under eighteen who is brought before any other court for an alleged violation of a state or local law must be immediately transferred to a juvenile court.

The goal of juvenile court is to help treat or rehabilitate minors rather than punish them. Therefore, juvenile court proceedings are informal and in most cases, private. Juveniles facing a delinquency hearing have certain rights; notice of the hearing, right to an attorney, proof "beyond a reasonable doubt," but have no rights to bail or a jury trial.

If found to be delinquent, the juvenile can be sent to a state institution for juvenile offenders, put on probation or sent to a halfway home or other program. In certain unusual cases, the juvenile court judge could, after a hearing on the matter, ***"certify"*** a youth to a regular adult court for trial there. The judge would have to find that the juvenile system has no facilities to treat the minor, there is a threat to public safety if the juvenile is kept in the juvenile system, or the juvenile is unlikely to be helped by the juvenile system.

Probate Court

The probate division in a district court hears matters concerning the administration of the estates of deceased persons (with or without a will), guardianships, and mental commitment hearings.

Family Court

Family court is where some of the most difficult problems facing a family can be heard. This might be a dissolution of marriage, a separation, a marriage annulment, or an action for child support or visitation rights.

Conciliation Court

Conciliation court is sometimes called ***"the people's court"*** or in other states a ***"small claims"*** court. It is a division of district court that is limited to certain types of cases. A conciliation court only hears civil cases where the amount of damages is no greater than $5,000. Lawyers are not needed because the parties themselves explain their case to the judge.

A person who loses in conciliation court can appeal to the district court for a completely new trial as if no earlier action had taken place.

Student Reading: MINNESOTA COURT SYSTEM cont.

Appellate Courts in Minnesota

Court of Appeals

The Minnesota Court of Appeals is the state's newest court, having been created by the Legislature in 1982. The purpose of the new court is to relieve the Supreme Court of an overwhelming caseload.

The Court of Appeals is concerned primarily with correcting errors made by trial judges, not in making new law. Its task is to find the law, to state it and apply it to cases presented to it by the parties involved in the appeal from the lower court.

A person who loses a trial at the district court level may appeal. Reasons for appeal would be include a party's claim that an error was committed by the judge or jury during the trial; a constitutional question was decided improperly; the law was interpreted incorrectly by the judge; or the decision was inconsistent with the evidence presented.

Most cases being appealed will be handled by the Court of Appeals. It can hear all appeals from trial courts and administrative agencies, except those few matters that the Legislature has expressly reserved for the Supreme Court.

The Court of Appeals and the Supreme Court operate differently from the district courts in Minnesota. There are no trials in these two appellate courts, which means that there are no jurors, no presentations of evidence and no testimony from witnesses.

The Court of Appeals has sixteen judges (1990), who normally sit in panels of three judges. The composition of the panels rotates, so that from time to time different judges hear arguments and decide cases. While the court has its headquarters in St. Paul, the judges often travel around the state to hear arguments in the area where the trials were held. Each Court of Appeals judge is elected to a six-year term; vacancies are appointed by the Governor.

The process for an appeal begins with the filing of a ***notice of appeal*** with the clerk of the appellate courts in St. Paul. The parties must then submit ***legal briefs***, which set out the legal basis for their argument.

After the briefs are completed, attorneys may present ***oral arguments*** to the appellate courts. Each lawyer is given a limited amount of time to express his or her position. The judges frequently question the attorneys about factual or legal matters, but the debate is restricted to the facts and records that were developed during the trial in the lower courts.

After oral arguments, the Court of Appeals panel hearing the case meets to discuss the merits of the case. A judge who represents the apparent majority viewpoint of the three judges is assigned to write the ***opinion.***

The opinions will either ***uphold the decision*** of the lower court, or modify or ***reverse*** the lower court's determination. If reversed, the case often has to go back to the lower court for a new trial. By statute, the court must release its opinion within 90 days after oral argument or final submission of briefs.

Student Reading: MINNESOTA COURT SYSTEM cont.

Supreme Court

The Supreme Court is the highest court in Minnesota. Like the Court of Appeals, the Supreme Court does not hold trials. Instead, it handles appeals from the Court of Appeals, the Workers' Compensation Court of Appeals and the Tax Court; first degree murder cases; and legislative election contests.

The Supreme Court is composed of seven justices, who hear oral arguments in the Judicial Center in St. Paul. After the arguments, the Court confers about the merits of the case and one of the justices writes the opinion. The opinion circulates among all the justices, who may choose to agree with the decision (which is called ***"concurring"***) or disagree (which is called ***"dissenting"***). A majority of the justices must concur with the opinion before it is released.

The opinions of the appellate courts are carefully written, since the decisions guide all of the state's courts in the future. Once released, the opinions are bound in a book for future reference.

The Supreme Court's decision is the final decision in Minnesota. If someone disagrees with the Minnesota high court, he or she may appeal only to the United States Supreme Court and then only if a question of the United States Constitution is involved. Chances of the United States Supreme Court reviewing a case are slight, since that court hears only about two percent of all the cases that are appealed to it. Each year there are less than half a dozen cases from the Minnesota Supreme Court that are reviewed by the U.S. Supreme Court.

The Minnesota Supreme Court is also responsible for overseeing the operations of the entire state court system, making plans to improve the judicial system, and monitoring the conduct of judges and lawyers. To complete these tasks, there is a state court administrator who is responsible for the management of the state courts.

Minnesota Supreme Court justices are elected on a statewide basis and serve six-year terms; vacancies are filled by appointments made by the Governor.

Special Courts Not in the Judicial Branch

There are special courts that are created by state law to deal with only one technical area of the law. Rather than seen as part of the judicial branch, they are seen as ***executive branch agencies***. These courts are the Tax Court and the Workers' Compensation Court of Appeals.

Tax Court

Three judges, appointed by the governor to six-year terms with approval by the Minnesota Senate, serve on the Tax Court. They must be knowledgeable about taxes, but they do not have to be lawyers. The Tax Court hears non-criminal tax cases from all over the state. The Tax Court is located in St. Paul but hears cases in the locality where the taxpayer lives.

Workers' Compensation Court of Appeals

Five judges, appointed by the governor to six-year terms with the approval of the Minnesota Senate, hear workers' compensation cases that are appealed from compensation hearings or that are transferred from district court. Judges must be lawyers. They have offices in St. Paul and hear cases there or elsewhere in the state. Workers' compensation cases include issues that arise when workers are injured while on the job.

Student Handout: SO YOU'RE GOING TO COURT - BUT WHICH ONE?

For each of the following situations, identify the Minnesota state court where the case would be heard. If the case is in district court include any specialized division likely to hear the case.

A. District Court	**B. Minnesota Court of Appeals**	**C. Minnesota Supreme Court**
1. *Juvenile court*		
2. *Probate court*		
3. *Family court*		
4. *Conciliation court*		

____1. Susie, a twelve-year old, has been caught shoplifting.

____2. A district court decision was upheld (agreed with) by the Court of Appeals. The defendant wants the case to be reviewed again.

____3. Marilyn says the jury would not have found her guilty of robbery if the first witness had been allowed to answer all the questions; therefore, her verdict should be changed to not guilty.

____4. Dan is being sued by a local retailer for not paying his $400.00 charge account bill.

____5. A man convicted of first-degree murder is appealing his case.

____6. Two high school seniors were arrested for throwing eggs at the local police department.

____7. Mrs. Green is suing Mr. Green for divorce.

____8. Three people have been charged with possession of cocaine.

____9. A woman is contesting her father's will because she believes that he did not mean what he said.

____10. A person represents himself or herself in this court.

____11. An elderly woman wishes to have her son take over her financial affairs.

____12. One person is suing another person for damages received in an automobile accident.

____13. Mrs. Smith thinks her ex-husband should have to increase his child support payments.

Student Handout: SO YOU'RE GOING TO COURT - BUT WHICH ONE? cont.

A. District Court	**B. Minnesota Court of Appeals**	**C. Minnesota Supreme Court**
1. *Juvenile court*		
2. *Probate court*		
3. *Family court*		
4. *Conciliation court*		

____14. These cases may be heard anywhere in the state.

____15. A person has been charged with a felony (serious crime).

____16. Seven people hear each case.

____17. Appeals from this court go to the district court.

____18. This court reviews the law as applied in a jury trial.

____19. This court holds jury trials.

____20. Small claims cases are heard here.

____21. A person wants to contest a speeding ticket.

____22. Two recently-divorced parents are arguing about custody of their children.

____23. A woman was charged with stealing $500.00 from her employer.

____24. The people who hear cases in this court are called justices.

____25. Two children have been abandoned by their parents.

____26. A panel of three persons may hear cases in this court.

____27. This court reviews selected cases from the Court of Appeals.

____28. Only lawyers present arguments before these courts.

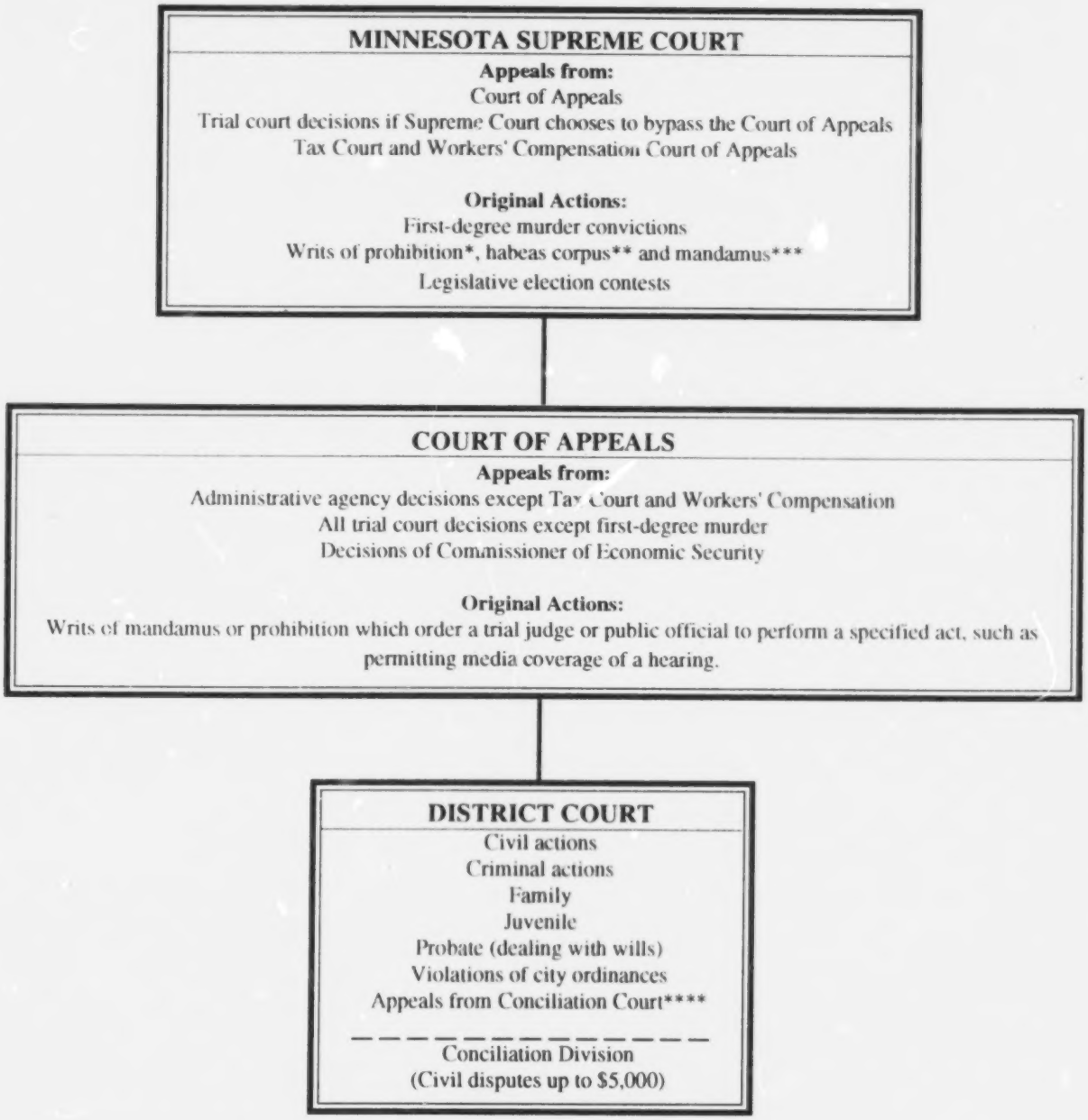
____29. There are witnesses in this court.

____30. This court will appoint an attorney if you cannot afford to hire one.

Answers: SO YOU'RE GOING TO COURT - BUT WHICH ONE?

1. A-1
2. C
3. B
4. A or A-4
5. C
6. A or A-1
7. A-3
8. A
9. B
10. A-4
11. A-2
12. A
13. A-3
14. B
15. A
16. C
17. A-4
18. B
19. A
20. A-4
21. A
22. A-3
23. A
24. C
25. A-1
26. B
27. C
28. B & C
29. A
30. A

How the Minnesota Court System is Structured


MINNESOTA SUPREME COURT
Appeals from:
Court of Appeals
Trial court decisions if Supreme Court chooses to bypass the Court of Appeals
Tax Court and Workers' Compensation Court of Appeals
Original Actions:
First-degree murder convictions
Writs of prohibition*, habeas corpus** and mandamus***
Legislative election contests
COURT OF APPEALS
Appeals from:
Administrative agency decisions except Tax Court and Workers' Compensation
All trial court decisions except first-degree murder
Decisions of Commissioner of Economic Security
Original Actions:
Writs of mandamus or prohibition which order a trial judge or public official to perform a specified act, such as permitting media coverage of a hearing.
DISTRICT COURT
Civil actions
Criminal actions
Family
Juvenile
Probate (dealing with wills)
Violations of city ordinances
Appeals from Conciliation Court****
Conciliation Division
(Civil disputes up to $5,000)

*Writ of prohibition - asks that a governmental body or official be prevented from doing something that might cause harm.
**Habeas corpus - a complaint alleging that someone has been unlawfully confined and is asking for release.
***Mandamus - asks that a governmental body or official be prevented from doing something that might cause harm.
****Called trial de novo - actually a new trial, not just a review of the conciliation court

Adapted from ***I'll See You in Court: A Consumer Guide to the Minnesota Court System***, Minnesota Supreme Court

JUDICIAL DISTRICTS MAP

Taken from ***Bench & Bar of Minnesota,*** 1989 Directory

People in the court

People visit Minnesota's courts for many reasons. They might be involved in a case as a victim, witness, plaintiff or defendant, or they might be interested in the case because they know one of the persons involved in the trial, because the reason for the case (burglary, assault) is of personal interest, or because they want to better understand the functioning of the court system.

The persons who are responsible for managing the courts try to help all of these people by making the courtroom open to the public, enforcing the courtroom rules, publishing materials that explain the process, and hiring and training employees who perform the activities of the court.

If you visit court, things of concern to you will vary depending on your reason for your visit. For example, if you are a defendant, that is to say if you have been accused of a crime, you will want to make certain that the judge and jury will hear the evidence, that the jury or judge will not be persuaded by information not presented as evidence to them in the courtroom, that the jury understands the jury instructions, that all people in the courtroom obey the court's rules. You will want to make certain that you get your constitutionally guaranteed rights to a fair trial. See the 6th Amendment to the U.S. Constitution.

Students will:

1. Understand the role of the persons who participate in the judicial system.
2. Understand the factors that might affect justice.
3. Understand the limitations of formal legal processes in settling disputes.

Materials needed: Copies of **Student Handout: PEOPLE IN THE COURT**
Copies of 6th Amendment

Time needed: 1 class period

Grade level: Grades 7-12

Procedure:

1. Discuss the introductory information with the students. Ask the students to skim the newspaper, circle stories about trials, and underline the people involved in the trial. Discuss the interests of these people. The interests will range from legal interest (wanting to win the case) to concerns about reputation, time, etc.

2. Have each student complete the **Student Handout: PEOPLE IN THE COURT**. This activity can also be a small group activity, either asking each group to consider all individuals or assigning one individual to each group.

Procedure cont.

3. Discuss the various and sometimes conflicting interests.

4. ***Optional activity:*** Ask the students to interview people who have been in the position of a person in the activity. Using the **Student Handout: PEOPLE IN THE COURT**, have the students add concerns they did not previously consider. Discuss the new concerns.

5. Complete this lesson by discussing the complex and often difficult role of the courts as it tries to help all people in the courtroom

Student Handout: PEOPLE IN THE COURT

Try to step into the shoes of the following persons in the courtroom. List the concerns you might have. Remember that each person has some different concerns.

1. You are the defendant. You have been accused of stealing a sweater in a local department store.

Concerns: 1.
2.
3.
4.

2. Your sister was assaulted by a defendant. She has recovered enough to testify at the trial, but she is still healing.

Concerns: 1.
2.
3.
4.

3. You are a respected member of the community. Recently, you were charged with driving under the influence of alcohol.

Concerns: 1.
2.
3.
4.

4. A friend of yours is on trial in a highly publicized case. You want to attend the trial to provide your friend with moral support.

Concerns: 1.
2.
3.
4.

5. You are a news reporter for the local newspaper. You have been assigned to cover the trial of a gruesome murder. You expect all the local media to be represented by reporters and many spectators to be in the courtroom.

Concerns: 1.
2.
3.
4.

Student Handout: PEOPLE IN THE COURT cont.

6. You are the judge. You know it is your responsibility to make certain the courtroom is run according to the rules so that the defendant receives a fair trial. This is your most important duty. The case before you involves organized crime.

Concerns: 1.
2.
3.
4.

7. You are a public defender. Your client has been accused of crack possession and cannot afford an attorney.

Concerns: 1.
2.
3.
4.

8. You are a county attorney. It is your job to bring criminal charges against a defendant and to prosecute the case. As an elected official you represent the people. You are currently prosecuting a defendant charged with first-degree murder of a young girl in a public parking ramp.

Concerns: 1.
2.
3.
4.

9. You have been severely injured in an automobile accident that was caused by brakes not designed safely. Your suit against the automobile manufacturer is going to trial.

Concerns: 1.
2.
3.
4.

10. You are a member of the jury. The case you are hearing involves much complex information about the operation of a machine. You are self-employed as a landscape architect.

Concerns: 1.
2.
3.
4.

Choosing a judge

This lesson will introduce students to the process of appointing judges in Minnesota. They will explore the considerations that play a role in judicial selection.

Students will:

1. Explain and evaluate the procedures used to select judges.
2. Understand the governor's constitutional power to appoint judges.
3. Identify factors that are considered in judicial appointments.

Materials needed: Copies of **Student Handout: JUDICIAL SELECTION PROCESS, Student Handout: YOU DECIDE**

Time needed: 1-2 class periods

Grade level: Grades 7-12

Procedure:

1. Introduce activity by asking students to pretend that they are the governor and that a judicial vacancy has occurred in one of the district courts. Ask the students who they would choose to be the new judge. (Answers will range from "my best friend" to "a highly respected lawyer.")

2. Explain to students that under a new Minnesota law, a Commission on Judicial Selection consisting of lawyers and non-lawyers who are appointed by the governor's office and the Supreme Court makes recommendations for vacancies occurring in the district courts. The governor may select from the recommended individuals but is not required to do so. (These individuals will be lawyers. All judges in Minnesota must be lawyers.) This procedure is not used for vacancies occurring in the Court of Appeals or in the Supreme Court. For these vacancies, the governor may use whatever procedure he or she wishes. Most often, the governor creates a committee to help identify judge candidates.

3. Ask students to read the first half of the **Student Handout: JUDICIAL SELECTION PROCESS.** Discuss the questions presented.

A. Should the new judge be a friend? In many cases, governors will appoint persons they know. Is this a good idea? Why or why not?

B. Should an independent group make recommendations to the governor? What are the advantages? (No appearance of partisanship.) What are the disadvantages? (Will the independent group make quality recommendations? What is to prevent them from recommending friends?)

Procedure cont.

C. If an independent group is to decide, who should belong to the group? Lawyers? People who are not lawyers?

4. Have students, working independently or in small groups, read the **Student Handout: YOU DECIDE** and select the characteristics that they think are required, recommended, undesirable, and unnecessary. Discuss as a large group.

5. Instruct students that they are the governor. A vacancy has recently occurred in the Supreme Court. The Supreme Court is currently comprised of six judges (seven when all positions are filled), three are women and three are men. There are no minority judges on the Supreme Court. Most of the members of the court will be retiring in the next ten years. (In Minnesota, judges must retire when they reach the age of 70 years old.)

6. Working in small groups, have students select one of the five candidates to appoint to fill the vacancy. Ask students to explain their selections, addressing the characteristics discussed during step four.

Student Handout: JUDICIAL SELECTION PROCESS

Judges in the Minnesota court system are elected to six-year terms. However, most often judges will retire in the middle of their terms. When this happens, the state's governor has the authority under the Minnesota Constitution to appoint replacements. A replacement judge is then up for election the first election that occurs at least one year after the date of appointment. This gives the judge an opportunity to become familiar with the job and provides the people with enough information to evaluate the judge during the election. A judge who is running for election does not declare a political party because judges are non-partisan.

The selection process used by a governor is often the subject of controversy. Should the new judge be a friend? Should an independent group make recommendations to the governor? If so, who should belong to the group? Lawyers? People who are not lawyers? What personality traits and experiences should be viewed as important?

You have been appointed to a advisory group that will be recommending persons to the governor. Read the characteristics listed below and categorize them under the most appropriate heading: essential requirements, desirable qualities, undesirable qualities, and unnecessary qualities. After you have completed this activity, develop a definition of a "good" judge. Write it in the space provided.

CHARACTERISTICS

1. female
2. old and wise
3. Republican
4. pro peace
5. fair
6. radical
7. determined
8. youthful
9. pro environment
10. collegial
11. good campaigner
12. aggressive
13. self-reliant
14. honest
15. good looking
16. clear thinker
17. concise writer
18. child of immigrant
19. male
20. single parent
21. good health
22. conservative
23. humane
24. traditional
25. well-educated
26. Democrat
27. liberal
28. controversial
29. judicial experience
30. family-oriented
31. supports welfare
32. handicapped
33. trustworthy
34. risk-taker
35. helpful
36. religious
37. loyal
38. brilliant mind
39. eminent legal scholar
40. good fundraiser
41. trial attorney
42. U.S. Citizen
43. independent thinker
44. strict constructionist
45. eloquent speaker
46. supports abortion
47. supports foreign aid
48. opposes school prayer
49. member of a minority group
50. opposes higher taxes
51. civil rights activist
52. holder of public office
53. business background
54. community-minded
55. distinguished lawyer
56. follows party line
57. middle-of-the-road
58. tough on crime
59. DWI conviction

ESSENTIAL REQUIREMENTS	DESIRABLE QUALITIES	UNDESIRABLE QUALITIES	UNNECESSARY QUALITIES

Develop a definition of a "good" justice or judge.

This lesson is an adaptation of "What Makes a Good Supreme Court Justice?" by Debra Hallock Phillips

BEST COPY AVAILABLE

Student Handout: YOU DECIDE

You are the governor of Minnesota. Under the Minnesota Constitution, you have the power to appoint judges to fill vacancies. A vacancy has occurred in the Supreme Court. A list of five finalists is on your desk. You must decide which person to appoint to the position.

Candidate 1: Sue Johnson

Sue has been a lawyer for 25 years. She is 53 years old. She is active in the area of family law (child custody and support, divorce, adoption). She grew up in a small town in southern Minnesota and now practices in a neighboring town. Sue has been the chair of several community organizations and has received the volunteer of the year award in her town. She has also been named as a WCCO Good Neighbor.

Candidate 2: Byron Wright

Byron is the county attorney for one of the heavily populated counties. In this role, he is often quoted in the media as he tries to solve many serious crimes including murder. Because he spends all of his time working, he has little time for volunteer work. However, he is very active in his church. Before beginning his 6 years as county attorney, he worked for the public defender's office for 15 years. Byron is 46 years old.

Candidate 3: Stephen Blum

Stephen is a lawyer in private practice in Minneapolis. The areas of law he works in most often are environmental and agricultural law. Stephen has been practicing law for 31 years. He spends much of his spare time representing poor people and people who feel that their first amendment right to practice their religion has been infringed. Stephen is 58 years old.

Candidate 4: Tibetha Cunningham

Tibetha is an African American lawyer in St. Paul. Although she has only been practicing 10 years, she has developed a reputation for being a top personal injury lawyer (representing people who have been injured). She spends most of her time in the courtroom trying cases. She is active in the Minnesota Women Lawyers' Association and actively recruits other women of color to go to law school. Tibetha is 36 years old.

Candidate 5: Bouy Hey

Bouy is a lawyer who has been practicing for 9 years. He lives in a community with other Southeast Asians. He escaped from Cambodia in the 70s and settled in Minnesota where he went to college and law school. Bouy has devoted his practice to helping other Asians in their efforts to get jobs, buy houses, educate their children, and live happy lives. Bouy is very well respected in his community and has become the spokesperson for the Southeast Asians. Bouy is 39 years old.

The Minnesota jury system- Your share in justice

The right to a jury trial is a fundamental one in our legal system. In the words of Sir William Blackstone, the eminent 18th century English legal scholar, the trial by jury is ". . .the grand bulwark of our liberties. . .the most transcendant privilege which any subject can enjoy or wish for." The right of the defendant to fair legal process includes having his or her fate determined by "a jury of peers," meaning representative members of the community. However, this right is dependent on those citizens who participate in the process.

Jury service provides citizens with one of the few opportunities to actively participate in the workings of their government. To participate effectively, students must understand the role of the jury in the legal system. This lesson introduces students to the role of a jury in the trial process. It is a companion lesson to the video ***"Your Share in Justice - Jury Service in Minnesota"*** produced by the Minnesota Supreme Court. It is possible for the teacher to conduct the same discussion without the video by relying on the information in the **TEACHER BACKGROUND: Jury System in Minnesota**.

Students will:

1. Understand the duties of jury service as an active form of citizenship.
2. Understand the role of a jury in the trial process.

Materials needed: (Optional) Video, ***"Your Share in Justice - Jury Service in Minnesota."***

Time needed: 1 class period

Grade level: Grades 7-12

Procedure:

1. Ask your students to imagine that their parents have received a summons to report for jury service. What questions would they have about being on a jury? Brainstorm questions and list on board. Sample questions may include:

How are people selected for jury service? Who picks them? Why are large numbers of people called for jury service and some never actually hear a case? What types of juries are there? How many people actually sit on a trial jury? How are they selected?

What is the job of a juror? Do they get paid? Should a juror prepare? What do they actually do during a trial? How do they make their decisions?

Why is the jury system important? How does it make the legal process fair?

Procedure cont.

2. Ask students to discover answers to the previously generated questions while viewing the video ***"Your Share in Justice - Jury Service in Minnesota."*** This ten minute video has been produced by the Minnesota Supreme Court to familiarize all citizens with the jury system. The tape will discuss the importance of juries in our judicial system, jury selection, voir dire examinations, steps in a trial, and jury deliberation. Other information on juries is provided in the **TEACHER HANDOUT: Jury System in Minnesota.**

3. After viewing the video, ask questions such as the following:

A. What should a person know before serving on a jury? Why is it most important for a juror to have the ability to be fair and use good common sense?

B. What is a voir dire examination of jurors? What is the difference between striking ***"for cause"*** and a ***"peremptory" challenge?*** Why did defense counsel excuse Ms. Lewis for cause? (She had been a victim of a theft crime and the case to be tried was a burglary.) Do you think Ms. Lewis could have been a fair and impartial juror?

C. What instructions are given to the jury at the beginning of the trial? How are these instructions unique to a criminal case?

D. Why are jury members asked not to discuss the case until time for deliberation? Is this a good rule? Explain.

E. Summarize the steps in a trial. What should jury members listen for and observe during witness testimony? What other types of evidence is considered by a jury? What is a jury member instructed to do if an objection is sustained? (Disregard the question) How can this be done?

F. How does a jury reach a decision? How many members must agree to the verdict in a criminal case? Civil case? Why are jury deliberations done in private? Should they be?

G. Why is it important for citizens to do "their share" by serving on a jury? What happens to justice and the legal process if representatives of the community don't participate? If you were on trial, what attitudes would you want jury members to have?

H. What are the personal costs to individuals when they perform jury service? (loss of time at work, cost of babysitter, etc.) What are the personal benefits? (civic duty, knowledge about legal system, etc.) Do the benefits outweigh the costs? Would your answer change if jurors did not receive payment?

I. Who do you think would decide the defendant's fate if there was no jury system in the U.S.? How would that be more or less fair than a jury system?

4. Check to see that student generated questions were answered. For unanswered questions, students may want to interview adults who have served on juries.

Procedure cont.

5. In pairs, have students develop guidelines on jury service that they could share with the parent who had been summoned to serve. Sample titles could include: "Ten Facts All Jurors Should Know," "Tips for Jurors," "Make the Most of Your Day in the Jury Box," or "Jury Service: Penalty or Privilege."

6. Follow-up lessons in this book include **Voir Dire Process** and **You Decide: A Jury Simulation.** Both of these lessons expand on the burglary case introduced in the video yet can be done independent of the video.

TEACHER BACKGROUND: Jury System in Minnesota

Right to a Jury Trial

The right to a jury trial is a fundamental right provided in the U.S. Constitution and binding on the states through the Fourteenth Amendment.

Article III, Section 2, clause 3 of the Constitution provides that the "trial of all Crimes, except in Cases of Impeachment, shall be by Jury. . ." The Sixth Amendment reinforces this right by stating that "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed. . ." The Seventh Amendment preserves the right of trial by jury in civil suits.

The Minnesota Constitution, Article I, Section 4 guarantees a jury trial in the state court system.

The importance of trial by jury in our legal system is summarized by the U.S. Supreme Court:

> *"Twelve men and women of the average of the community, comprising persons of little education, persons of learning and persons whose learning consists only in what they have themselves seen and heard; the merchant, the mechanic, the farmer, the laborer; these sit together, consult, apply their separate experience of the affairs of life to the facts proven and draw a unanimous conclusion. This average judgment thus given it, is the great effort of the law to obtain. It is assumed that twelve persons know more of the common affairs of life than does one person, that they can draw wiser and safer conclusions from admitted facts thus occurring, than can a single judge."*

Qualifications for Jury Service in Minnesota Courts

A person is qualified for jury service if he or she is 18 years old or over; if he or she is a citizen of the United States and a resident of Minnesota and the court's district. A person must also be able to read or speak English and be physically and mentally capable of rendering jury service.

A person is ineligible for jury service if he or she has not completed sentence or parole after a felony conviction, has already served on a jury within the last four years, or is a judge, court commissioner, referee, hearing officer, attorney or member of the Legislature, (Minn. Stat. 593.41). Recent advisory guidelines adopted by the Minnesota Supreme Court recommend judges should be the only occupational group exempted.

Persons cannot be excluded from jury service on the basis of race, national origin, gender, religious belief or income. (Minn. Stat. 593.32) Age and occupation are recommended additions to this list by the Minnesota Supreme Court's advisory guidelines.

An eligible juror may be excused from jury service by the judge or jury commissioner if their ability to perform jury duties is impaired or performing such duties would be a continuing hardship to them or to members of the public. Jury service can more easily be deferred or postponed for reasonably short periods of time as permitted by a jury commissioner.

Jury Selection

Names of potential jurors are drawn at random from a jury source list compiled from voter registration and drivers license lists. The jury source list is intended to represent a fair cross-section of the community, (Minn. Stat. 593.36). The random selection process can be done manually or by computer but must provide each eligible and available person with an equal probability of being selected.

TEACHER BACKGROUND: Jury System in Minnesota cont.

Jury Selection cont.

Citizens selected for jury service and qualified to serve form a jury panel. Several types of trial juries may be chosen from the jury panel.

Types of Juries

Citizens may serve on several types of juries in the Minnesota court system. A ***Grand Jury*** may be called at the request of the county attorney for the purpose of issuing an indictment or formal charge in a criminal case. A grand jury has 16-23 jurors and 12 jurors must agree in finding an indictment.

A criminal jury will consist of twelve persons if the sentence for the crime charged is more than one year of confinement (felony). A jury of six persons will serve if the penalty is one year or less of confinement. All criminal cases require a unanimous jury decision in reaching a verdict.

A jury in a civil case consists of six persons. Verdicts in civil cases should be unanimous, except that a civil jury may return a verdict, after six hours of deliberation, with which five of the six jurors agree.

Choosing a Trial Jury

Voir Dire (pronounced vwar deer) refers to the jury selection process for a particular trial. The goal is to select a fair and impartial jury through the elimination of jurors who may be prejudiced. During voir dire examinations, jurors are questioned first by the judge, then by each attorney. If a juror is even distantly related to the complainant or the accused, has previously sued the defendant in an unrelated civil matter, has been otherwise connected with either party in some business transaction, or cannot be fair and impartial for other reasons, he or she may be challenged for bias or ***"cause."***

In addition, the respective attorneys may exclude jurors they do not want, without having to show that the jurors are disqualified through cause. The attorney does this through a ***"peremptory"*** challenge. However, the number of peremptory challenges available to each attorney is limited. The defense attorney is limited to five of these challenges; fifteen peremptory challenges are allowed in a case where the sentence of life imprisonment is possible. The prosecuting attorney is allowed three and nine peremptory challenges, respectively.

Role of the Jury

The jury has the responsibility of deciding the facts at issue in a trial. For example, did Bill really drive through a red stoplight and cause the accident? The jurors will listen to the lawyer's opening statements, direct and cross examination of witnesses, and the closing arguments of each side. They must listen and observe closely the testimony presented. After the judge instructs the jury as to the law and the issues of fact to be reached, they retire to consider the verdict.

During deliberations jurors will consider, examine, and weigh all the evidence in the case with the sole power to decide disputed questions of fact and to put their conclusions in a verdict. In a criminal case, a jury will be ***sequestered*** or separated from the public during its deliberations. If the case is particularly sensational, the jury may be sequestered for the length of the trial.

TEACHER BACKGROUND: Jury System in Minnesota cont.

Miscellaneous Information

Jury service will usually last for 10 court days unless it takes longer to complete a particular trial. Jurors are reimbursed for travel expenses and are paid at a rate of $15.00 per day (although an increase in this rate has been recommended). Jurors are allowed to take notes during the trial. They are not allowed to talk to anyone about the case. The judge will instruct the jury as to the types of questions they may ask during the trial and deliberations.

Sources:

Δ Minnesota Statutes 593.01 - 593.50.

Δ Rules of Civil Procedure for Minnesota District Courts.

Δ Minnesota Rules of Criminal Procedure.

Δ *"Minnesota Standards Relating to Jury Use and Management,"* Adopted by order of the Minnesota Supreme Court as Advisory guidelines for Management of Jury Systems within the State of Minnesota (September,1989).

Δ *"And Justice for All,"* A Handbook for Jurors, Minnesota State Bar Association.

Voir dire process

Voir dire (pronounced vwar deer) is the term used to describe the procedure for ***selecting*** or ***impaneling*** a jury that will hear a particular case. Jury selection is considered by many legal professionals to be the single most significant procedure in the entire trial process. Voir dire, a French phrase meaning "to tell the truth," has as its ultimate objective the selection of a fair and impartial jury.

In Minnesota courts, the judge as well as lawyers ask questions of prospective jurors. Questions are limited to matters relevant to the particular case and those that help attorneys decide whether or not to challenge a person's participation on the jury. Attorneys can ***challenge for cause*** any juror who exhibits a bias for or against any one of the parties. For example, jurors may be disqualified if they are related to one of the parties or attorneys, stand to benefit from a decision in the case, or if they have already formed an opinion about the case. Each attorney also has a certain number of challenges called ***peremptory challenges*** which can be used to strike a juror without giving any reason. For example, a defense attorney may get the impression that a prospective juror simply doesn't like the defendant and will then use a peremptory challenge to prevent that person from being on the jury.

There are numerous social and psychological factors that enter into the selection of a jury. Studies have shown that women are thought to be more sympathetic to the defense, men to the prosecution. The wealthy are thought to be more sympathetic to the prosecution, the poor to the defense. Ethnicity and race are also thought to be important factors. Often attorneys consider the "ideal juror" to be one who has similar characteristics to their client or the victim. For example, a prosecutor would prefer potential jurors who have similar characteristics to the victim, and defense attorneys would want individuals who are similar to the defendant.

What is jury selection all about? Is the goal a fair and impartial jury or one that is more likely to sympathize with the attorney's side? Realistically, attorneys insist on the former yet strategize for the latter as part of voir dire.

This lesson provides students with an opportunity to struggle with the concept of a fair and impartial jury as they select a jury in a hypothetical case.

Students will:

1. Understand the purpose of voir dire examinations.
2. Understand the right to an impartial jury guaranteed in the Sixth Amendment.
3. Develop critical thinking skills in analyzing information, determining what information is relevant and evaluating its impact.

Materials needed: Copies of **Student Handout: IS THIS JURY FAIR?, Student Handout: MINNESOTA V. ED JONES,** and **Student Handout: CHOOSING A JURY**

Time needed: 2 class periods

Grade level: Grades 7-12

Procedure:

1. Discuss introductory information on voir dire. Why is voir dire an important part of the trial process? What sort of information about jurors does an attorney want to discover during voir dire? What factors help make a jury fair and impartial? What factors might cause a juror to favor your side?

2. Ask students to read **Student Handout: IS THIS JURY FAIR?** on the voir dire exam conducted at Harold Johnson's trial. Questions that follow on the handout can be answered independently or as a class. Discuss as a class whether Mr. Johnson received a trial by a fair and impartial jury.

3. Have students read the hypothetical case in **Student Handout: MINNESOTA V. ED JONES.** Assign half the class the role of Ed's defense attorney and the other half the role of prosecuting attorney. Ask students to visualize the ideal juror for their side of the case. What type of person would best identify with your client's position, you as an attorney, or the issues in this case? Write a paragraph describing the ideal juror including such characteristics as age, social background, marital status, family status, education, occupation, employment history, residence history, personal history, hobbies and activities, and possible experiences that might be relevant to the case.

A. Ask students to consider and describe the type of person who would be least likely to identify with their positions. Describe this type of person in a 4-6 sentence paragraph.

B. Ask for volunteers from the prosecutor group to share their ideal jurors. Students should be able to reason how certain characteristics might make one person more ideal than another. Note the different opinions of the students. Suggest that lawyers often don't agree with each other on who would be the ideal juror for a particular case.

C. Repeat the discussion with descriptions of ideal jurors by the defense attorneys. It may dawn on the students that the ideal juror for their side is the "least sympathetic" juror for the other side.

D. Based on these descriptions, students should write questions they might ask during voir dire to eliminate those jurors least favorable to their side of the case.

4. On the second day, divide the prosecutors and defense attorneys into small groups of 3-4 students. Be sure that each small group has only lawyers from the same side. Each group will receive descriptions of 18 prospective jurors for Ed Jones' trial in **Student Handout: CHOOSING A JURY.** The task of each small group is to select a jury of twelve to hear Ed Jones' case. **Each group has unlimited challenges for cause but only two peremptory challenges.** Groups must state their reasoning on the handout.

Allow groups 20 minutes to complete their task.

5. In tallying results, go through names of potential jurors with groups on each side presenting challenges as they see fit. Teacher will sustain or overrule challenges for cause based on the strength of the group's reasoning. The two peremptory challenges used by each group would not be questioned by the teacher.

Procedure cont.

6. After all potential jurors are discussed ask students:

A. What characteristics of jurors did all the prosecutor groups agree would make the juror biased or unfair? What characteristics did all the defense groups agree would make the juror biased or unfair? Why is it important to have an unlimited number of challenges for cause?

B. What factors influenced your group's decision on when to use peremptory challenges?

C. Did all the prosecutor groups choose the same jury? Why or why not? Is the same true for defense groups? Explain.

Student Handout: IS THIS JURY FAIR?

Harold Johnson was convicted of robbery and sentenced to twelve years in prison. He felt his conviction was not fair because the jury foreperson, Mr. Spencer, was unable to be impartial in his case. The trial record shows the following exchange took place between Harold's attorney, Mr. Pickard, and Mr. Spencer during voir dire:

Mr. Pickard (Defense Counsel): Has anybody been robbed? (Mr. Spencer raises his hand) Mr. Spencer, due to the fact that you have recently been robbed do you think you might be a little bit more inclined to convict regardless of the evidence?

Juror Spencer: Yes sir, I probably would.

Mr. Pickard: You think you may be a little biased?

Juror Spencer: Yes sir.

Mr. Pickard: You're saying in all probability you wouldn't be able to give the defendant a fair trial and view the evidence objectively?

Juror Spencer: Yes sir.

Mr. Pickard: We challenge for cause.

Judge: Mr. Spencer, we're not picking on you, but I have to be very careful. Let me ask you this. In spite of your experience a couple of weeks ago, could you still listen to the evidence that comes from this witness stand, and this evidence alone, and render a fair and impartial decision concerning the defendant, Harold Johnson?

Juror Spencer: Yes sir, I believe I could.

Judge: You wouldn't let the experience that you had affect you?

Juror Spencer: No sir.

Judge: Challenge for cause is denied.

Mr. Pickard: We object.

Judge: Note an objection.

Student Handout: IS THIS JURY FAIR cont.

Following, a jury of twelve and one alternate was selected. **Juror Spencer became the foreperson of the jury.** The jury returned a guilty verdict, and Mr. Johnson was sentenced to twelve years in prison. The case **was appealed**, but Mr. Johnson lost the appeal. Johnson v. State, 356 So. 2d 769 (Ala.Cr.App. 1978).

??? QUESTIONS ???

1. Should Juror Spencer have been removed for cause? Why or why not?

2. Why did the Judge refuse to grant the challenge for cause? Do you think Juror Spencer could try the case impartially and without prejudice even though he said he would consider only the evidence brought forth at trial? Explain.

3. What else could the defense attorney, Mr. Pickard, have done in this case? If you were the attorney, what additional questions would you have asked during voir dire?

4. What do you think was the impact of Juror Spencer becoming the foreperson of the jury?

5. If you were an appellate judge on the court hearing this appeal, would you agree or disagree with the trial judge's decision? Explain.

Student Handout: MINNESOTA v. ED JONES

Ed Jones, is charged with first degree burglary. The complaint alleges that Jones broke into the Faber residence, 3701 Harris St., at 1 a.m. on September 15. The Fabers were sleeping upstairs at the time. It is alleged that Mr. Jones broke the den window at the rear of the house, pried it open and entered the house for the purpose of stealing Mr. Faber's rare coin collection. Only the coin collection was missing, and no injuries were reported in the incident.

Jones, age 38, is white, single, and works as a self-employed carpenter doing a variety of remodeling projects. He has a previous conviction for marijuana possession and dropped out of high school at sixteen. He rents an apartment in an interracial neighborhood located near the scene of the burglary. This neighborhood has experienced a dramatic increase in reported burglary crimes.

This is the first time the Fabers have been a victim of crime, and they have lived in their home for over thirty years. The neighborhood had been a very safe one in which to raise their three children. But times have changed. Now, as retirees, the Fabers find themselves fearful of increased crime, yet they cannot afford to move away.

Student Handout: CHOOSING A JURY

As lawyers your group must decide which of these people are acceptable on the jury. For those who are not acceptable, determine if you can strike for cause or whether you would have to use a peremptory challenge. ***For the purposes of this exercise, you have unlimited challenges for cause but only 2 peremptory challenges.*** For any challenge for cause you must convincingly state your reasons. If the judge sustains the challenge for cause, the juror will be excused.

Remember a challenge for cause is used when the juror is unable to be fair and impartial because the juror: 1) is related to one of the parties or attorneys, 2) stands to benefit from a decision in the case, 3) has already formed an opinion in the case.

Everyone in your group **must agree** on the 12 people selected for Ed Jones' jury. You will be asked to share your results.

POTENTIAL JURORS

1. Sue is 34, white, single with a law degree. She is an attorney with the Legal Defense Aid where she defends clients too poor to be able to hire an attorney. Her hobby is racing sports cars on weekends.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

2. Jonathan is 28, white, married with three small children. He is a research assistant working on a new laser burglary alarm system.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

3. Romano is 42, Hispanic, married and works as a computer technician. He is saving money to buy a new home in the suburbs. He is an excellent tennis player.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

4. Helen is 43, white, single with a journalism degree. She is managing editor of *Neighborhood Watch,* a community based newspaper helping citizens keep their neighborhoods safe.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

Student Handout: CHOOSING A JURY cont.

5. Darren is 27, white, single, and a high school drop out. He plays lead guitar in a local band. He was recently involved in a drug raid by local authorities.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

6. George is 65, white, retired widower who enjoys watching law shows on television. He is married to Mrs. Faber's sister.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

7. Jan is 46, white, and recently divorced after a bitter court battle. She has a graduate degree in history and teaches at the University. Her former husband is a well-known trial lawyer.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

8. Lee is 55, black, married with two grown children. He sells insurance and sold a policy to Mr. Faber to insure his coin collection.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

9. Elaine is 53, black, and married. She is active in her church. Her two sons are married. Her husband is a plant supervisor and active in the trade union.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

10. Jane is 25, white, separated from her husband. She lives with two other women in a condominium and works as a waitress at a local bar. She didn't finish high school.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

Student Handout: CHOOSING A JURY cont.

11. Marie is 37, white, divorced and works as a secretary. She was a victim of a purse-snatching and has recently taken a self-defense course to protect herself.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

12. Dorothy is 51, white, and married. Her son was arrested on theft charges and convicted last month. She is a buyer for a large retail store.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

13. Clinton is 62, white, and married. He's president of the country club, enjoys visiting his four grandchildren and retires next year as bank vice-president. He lives next door to the judge in this case.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

14. Donald is 45, black, a widower with a degree in education administration. He is a high school principal and very involved in community sports programs.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

15. Ryan is 36, black, married, and is an accountant. He recently hired Ed Jones to refinish his basement. He was very satisfied with Ed's work.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

16. Claudia is 39, white, and married with a college degree. She is a homemaker with three small children. Her husband is an architect.

On Jury? **Yes** **No** **Type of Challenge:**_____

Reasons: _____

_____

Student Handout: CHOOSING A JURY cont.

17. Hyon is 22, Asian, and single. He was born in South Korea and became a naturalized U.S. citizen after being adopted by a U.S. family. He is working two full-time jobs to earn tuition for graduate school.

On Jury? **Yes** **No** **Type of Challenge:**_____
Reasons: _____
_____

18. Joe is 34, white, single and a recovering alcoholic. Six years ago, he completed a court ordered chemical dependency treatment program following a conviction for drug possession. His civil rights have been restored (which means he may be a juror).

On Jury? **Yes** **No** **Type of Challenge:**_____
Reasons: _____
_____

Check the following:

Q. Did your group select 12 jury members?

Q. For each *challenge for cause*, have you explained your reasons?

Q. Have you used only 2 *peremptory challenges*?

You decide:

A jury simulation

A jury simulation is an effective and exciting learning activity for students. When confronted with the facts and evidence that the two opposing sides might introduce during a trial, the students engage in a lively discussion as they try to determine whether or not the defendant is guilty or not guilty.

Only after they reach a verdict and realize no one is going to provide them with the "right" answer or with "what really happened," do the students begin to grasp the magnitude of a juror's responsibility. This simulation allows students to begin investigating such legal concepts as ***"guilt beyond a reasonable doubt"*** and ***"innocent until proven guilty,"*** as well as gain some insights into the role of a juror.

The fact pattern of this simulation is based on the case introduced in the jury video, ***"Your Share in Justice - The Minnesota Jury System"*** This lesson can be done independent of the video.

Students will:

1. Understand the role of the people who participate in the judicial system.
2. Understand the legal and judicial process and how decisions are made.

Materials needed: Copies of **Student Handout: YOU DECIDE,**
Student Handout: JURY FORM,
Student Handout: THE RESPONSIBILITIES OF JURORS, and
Student Handout: WHO STOLE THE COOKIES?

Time needed: 1 class period

Grade level: Grades 7-12

Procedure:

1. Review the role of a jury in a criminal trial. Why is the jury an important part of a trial? What is their job? What is a verdict? What is meant by jury deliberations? Who tells the jury what to do? What information do they consider in making their decision? How many jurors must agree to a verdict?

Much of this information can be found in the video ***"Your Share in Justice - The Minnesota Jury System"*** or in the background information contained in the lesson entitled **The Minnesota Jury System: Your Share in Justice.**

2. Have students read the **Student Handout: THE RESPONSIBILITIES OF JURORS** and complete the activity **WHO STOLE THE COOKIES?** The activity will have students apply the

Procedure cont.

information about standards of proof to very simple facts, thus gaining an understanding of the different standards used to prove a fact in a court of law.

3. Introduce the simulation by telling students they will be stepping into the shoes of jury members who have listened to a criminal case. Tell them that all of the evidence has been presented, and that it is time for the jury to begin deliberations.

4. Read the **JUDGE'S INSTRUCTIONS TO THE JURY** in which the students are informed of the charges against the defendant, the definition of first-degree burglary, and a definition of ***"innocent until proven guilty"*** and ***"guilty beyond a reasonable doubt."***

5. Hand out the **Student Handout: YOU DECIDE**. Divide the class into small groups. Students will review the facts and reach a verdict of either guilty or not guilty. Each group should choose a jury foreperson who receives the **JURY FORM.** Small group discussion should last 15-20 minutes. Make sure the foreperson writes the verdict down on the **JURY FORM.**

6. After each group reaches a verdict, the jury foreperson will announce the verdict to the class explaining how the group members reached the decision, which facts swayed them the most, and what questions they felt were left unanswered.

7. Compare and contrast each group's verdicts. Did every jury decide the same way? What factors influenced jurors' decisions? How important is it to observe witnesses as they testify? Is it easy to be a juror? What are the responsibilities of jurors in making decisions?

(The jury simulation strategy was adapted from a lesson published in Update, Fall 1986 by Joseph O'Brien, director of the Virginia Institute for Law and Citizenship Studies at Virginia Commonwealth University in Richmond, VA)

JUDGE'S INSTRUCTIONS TO THE JURY

Ladies and gentlemen of the jury, in this case the state of Minnesota has charged the defendant, Ed Jones, with first-degree burglary.

The burden of proof is on the state of Minnesota. The state must prove the defendant guilty beyond a reasonable doubt, but not beyond all possible doubt. Reasonable doubt may be defined as a doubt for which a reason may be given.

The defendant in this case comes to you clothed with the presumption of innocence. This presumption stays with the defendant until you are convinced beyond a reasonable doubt that he is guilty. At that time the presumption ceases.

The defendant is charged with first-degree burglary. This means that the defendant is charged with entering a dwelling without consent and with intent to commit a crime while another person who is not an accomplice is present in the dwelling. In order to find the defendant guilty each of these elements must be proven:

1. The defendant entered a dwelling (house) without the consent of the person in lawful possession (owner).

2. The defendant intended to commit a crime. In other words, the defendant meant to do an act which is against the law.

3. There was someone else in the house (for example, the owner) at the time the burglary took place.

I ask you to retire and consider your verdict, ladies and gentlemen. I remind you that whatever decision you reach must be a unanimous one, with all jurors agreeing with the verdict. You should appoint one of your members as a foreperson, and upon reaching a verdict, it should be written on the **JURY FORM** from which the foreperson will read your decision.

Student Handout: YOU DECIDE

Information accepted as fact by the Court

Below is the information introduced by the prosecution and defense and accepted as fact by the court. Use this information in reaching your verdict.

Prosecution's Case

Fact: Ed Jones owns a pry bar that has his initials carved in the handle.

Fact: Jones' pry bar was found by Mr. Faber on the ground near Faber's house.

Fact: Mr. Faber testified that he was awakened suddenly during the night of September 14 by a strange noise. He went downstairs to investigate and found his rare coin collection missing and the den window broken. He called the police.

Fact: Mrs. Harper said shortly after hearing the noise, she saw a man running across her back-yard to the alley. She described him as being 6 feet tall, about 176 lbs., brown hair, wearing wire rimmed glasses and dark clothes, and carrying a small box under his arm. The man drove away in a 1975 Chevette that had been parked in the alley. Mrs. Harper saw the man's face and picked Jones out of a police lineup.

Fact: A 1975 Chevette is registered in Ed Jones' name.

Fact: Mrs. Faber testified that earlier on the day of September 14, Ed Jones had stopped over to look at her husband's rare coin collection he had advertised for sale. Mr. Faber took Mr. Jones to the den at the back of the house where he kept his coin collection. Mrs. Faber also testified that the two men got into a heated argument over the price of the coins, and she overheard Jones say there are other ways to add coins to a collection.

Fact: Mr. Faber testified that he met Jones for the first time when he came to look at the coin collection.

Fact: Nothing else was stolen from the house.

Fact: Jones' next door neighbor testified that Jones left his home after the 10:00 p.m. news on September 14 dressed in dark clothes.

Student Handout: YOU DECIDE cont.

Defense's Case

Fact: Jones testified that his pry bar had been stolen from his garage along with other construction tools while he was on vacation during the last week of July. Jones is a carpenter and does home remodeling projects.

Fact: Jones testified that he had his girlfriend over for dinner the evening of September 14 and they were watching video movies until 2:00 a.m. He said he never left his home that evening.

Fact: Jones testified that he had disagreed with Dwayne Faber over the price of the rare coin collection he was selling and that his comment about "other ways to get coins" meant that he would check out other coin dealers.

Fact: The girlfriend said she brought dinner and rented videos over to Jones' house about 7:00 p.m. She testified that Jones was in a bad mood because he had finally found the perfect coins to add to his collection but that the seller was asking too high a price. She testified that Jones was with her the entire evening and that she left around 2:00 a.m.

Fact: Mr. Faber's insurance agent testified that Mr. Faber insured his rare coin collection for twice its value and that he often said his collection would protect his future.

Fact: Mr. Faber's neighbor across the alley testified that some neighbor kids were walking through the alley about 12:45 a.m.

JURY FORM

In the matter of _____

*W*e, the members of the jury find, the defendant, _____
guilty/not guilty

of first degree burglary.

_____
Signature: Jury foreperson

Student Handout: THE RESPONSIBILITIES OF JURORS

The proper functioning of the jury system is founded upon the idea that each juror possesses intelligence, integrity, sound judgment, and complete impartiality in the performance of his/her duty. Members of the jury differ from other members of the general public because they have heard all of the evidence concerning a case and have promised to find a verdict that each one believes to be true. This verdict is based on facts and is not influenced by bias, fear, or favor.

The duty of the jury is to decide the disputed questions of fact and apply to them the law, which is given to them by the judge. The jurors are the sole judge of the facts. They also are the only ones to decide upon the believability of the witnesses and the importance of each witnesses' testimony.

When a person has been charged with an offense against the law and his guilt is established ***beyond a reasonable doubt (in a criminal case)*** or by a ***preponderance of evidence (in a civil case)***, there should be no hesitation on the part of the jurors to find the defendant guilty. If the evidence has not established guilt beyond a reasonable doubt, there should be no hesitation in returning a verdict of not guilty.

Before the jury is asked to make its decision, the judge will instruct the jury on the correct standard of proof. Jury instructions may include the following.

Innocent until proven guilty

The defendant is presumed to be innocent of the offense charged. This presumption of innocence goes with the defendant through the entire case. This is the reason defendants are said to have ***"allegedly"*** committed crimes. Jurors must find the defendant not guilty unless the state, represented by the prosecuting attorney, proves the defendant is guilty beyond a reasonable doubt (in a criminal case).

Reasonable doubt

Jurors cannot simply believe the defendant might be guilty. Merely suspecting guilt does not allow a finding of guilt. Decisions must be based on the evidence presented during the trial. Jurors may not go outside the evidence and guess what might have taken place.

Definition of Reasonable Doubt

Proof beyond a reasonable doubt is proof that leaves a person firmly convinced of the defendant's guilt. There are very few things in this world that are known with absolute certainty. In criminal cases, the law does not require proof that overcomes every possible doubt. If a jury is firmly convinced that the defendant is guilty of the crime charged, it must find the accused guilty. If, on the other hand, the jury thinks there is a real possibility that he/she is not guilty, the defendant must be given the benefit of the doubt and found not guilty.

Definition of Preponderance of Evidence

The plaintiff in a civil case must prove by a preponderance of the evidence that their version of the facts more likely occurred than the defendant's version. This standard leaves more room for doubt than in a criminal case. The jury should find the evidence presented by the plaintiff to be more credible and convincing than the defendant's evidence.

Student Handout: THE RESPONSIBILITIES OF JURORS cont.

Definition of Clear and Convincing

This standard is used in some civil cases. When it is applied, the plaintiff must prove by clear and convincing evidence that his or her version of the facts is much more likely to be true than the defendant's version of the facts. This standard falls between preponderance of the evidence and beyond a reasonable doubt.

When the jurors retire to consider the verdict, the first thing they do is select a foreperson. The foreperson guides the discussion, writes down the jury's verdict, and signs it as foreperson of the jury. The foreperson participates in the discussion of the case and votes along with all other jurors on the issues presented to the jury to decide.

The written instructions of the judge are carried to the jury room for guidance while reaching a verdict. Whenever the jury does not understand the instructions, they have the right and duty to ask the judge to tell them what the instructions mean.

Student Handout: WHO STOLE THE COOKIES?

THE COOKIES ARE MISSING!

With this fact in mind, fill in the standard that fits the crime.

Suspicion
Preponderance of evidence
Clear and convincing evidence
Beyond a reasonable doubt

Q. Your 4-year-old brother, Billy, is seen in the kitchen.

What standard? _____

Q. Billy is sitting at the table with a glass of milk and a happy face.

What standard? _____

Q. Billy with a glass partially full of milk, cookie crumbs on the table near his glass.

What standard? _____

Q. Billy with a glass partially full of milk, crumbs on his shirt and lap.

What standard? _____

Q. Same, but can see cookie in his mouth?

What standard? _____

Activity designed by Joseph Daly, Professor of Law, Hamline University School of Law, St. Paul, MN

Answers: WHO STOLE THE COOKIES

Q. Your 4-year-old brother, Billy, is seen in the kitchen.

A. **Suspicion**

Q. Billy is sitting at the table with a glass of milk and a happy face.

A. **Suspicion**

Q. Billy with a glass partially full of milk, cookie crumbs on the table near his glass.

A. **Preponderance of evidence.**

Q. Billy with a glass partially full of milk, crumbs on his shirt and lap.

A. **Clear and convincing evidence.**

Q. Same, but can see cookie in his mouth.

A. **Beyond a reasonable doubt.**

Conciliation court

This lesson will teach students about the conciliation court system. Because people often view the court system as too complex to deal with small problems, it is important that students understand the operation of conciliation court which limits the dollar value of actions to $5,000 and usually does not permit lawyers to be involved in the cases. It is truly the ***people's court.***

Students will:

1. Know the options and resources of the judicial system.
2. Understand the legal and judicial process.
3. Understand how legal and judicial decisions are made.

Materials needed: Copies of **Student Handout: CONCILIATION COURT, Student Handout: A CASE FOR CONCILIATION COURT?,** and **Student Handout: THE CASE OF THE AUTO REPAIR**

Time needed: 1-2 class periods

Grade level: Grades 5-12

Procedure:

1. Present students with the following hypothetical and ask students what they would do if they were in the same situation.

> *Toni parked her car along the street next to her older brother's apartment building. When she came out after visiting her brother, the top of her car was covered with a tar-like substance that was being used to repair the roof of the apartment building. Toni complained to the company doing the roof repair. They did not respond to her complaints.*

Students will offer a variety of solutions including "Sue the company!"

2. Discuss the advantages and disadvantages of the students solutions. Students should talk about the cost of trials (hiring a lawyer, etc.) and the complexity (takes a long time) as disadvantages of choosing to go to court. Some students may be familiar with the concept of a "people's court."

3. Ask students to read the **Student Handout: CONCILIATION COURT**. For younger students, explain the information contained in the student handout.

Procedure cont.

4. Have students working individually or in small groups decide the hypothetical cases presented in the **Student Handout: A CASE FOR CONCILIATION COURT?** Discuss the answers.

5. Have students read **Student Handout: THE CASE OF THE AUTO REPAIR.** As a large group, briefly discuss the questions.

6. Divide the students into groups of three. Assign one person to roleplay George, one to roleplay Wendy, and one to roleplay the judge. Give the students roleplaying Wendy and George a few minutes to prepare their arguments.

7. Ask the Georges to begin presenting their cases to the judges. After a few minutes, tell the Wendys to begin their arguments. (This guarantees that each side will have some time to present its side of the case.)

8. Tell judges to end the arguments and to take a few minutes to decide the case.

9. Ask each judge to share his or her decision with the parties. Then ask the judges to share their answers with the rest of the students. Compare the answers. Ask judges to explain their answers.

10. Tell students that in Minnesota, consumers can be protected in these kinds of cases. When bringing a car in for repairs, the consumer may ask for a ***written estimate***. Once the estimate is prepared and the car owner authorizes the repair, the garage cannot exceed the estimate by more than 10% of the estimated cost without informing the owner of the additional costs and receiving the owner's permission to make the additional repairs.

11. Review the value of conciliation court. Discuss the difficulties of presenting the information in a way that helps the judge understand the case. Ask the students to list items they would collect to help prove their side of the case if they were involved in an actual case similar to the auto repair case. (These items might include receipts, written estimates, notes about telephone calls, list of witnesses if any exist, etc.)

Student Handout: CONCILIATION COURT

Conciliation court is sometimes called ***"the people's court"*** or in other states a ***"small claims court."*** It is a division of district court that is limited to certain types of cases where money is the remedy sought. Only civil cases where the amount in dispute is less than $5,000 will be heard in conciliation court. The goal of conciliation court is to provide inexpensive, speedy, and informal civil trials. The modern conciliation court came into existence in the United States around 1910. At that time political reformers, called progressives, were pushing for ways to make state and local government better serve the needs of the common people. Thus, conciliation court came to be called "people's courts."

Since the main purpose of conciliation court is to provide a quick way for people to settle their differences over money, many legal procedures found in other courts do not exist in the "people's court." Generally lawyers are not present, rather the people directly involved in the case represent themselves and argue their cases before the judge. The judge simply asks each person to present his/her arguments in everyday language. The judge makes the final decision in each case because there is no jury.

Any adult may file a lawsuit in conciliation court. For example, an individual as a consumer may sue a business in conciliation court. Sometimes the party bringing the case (***plaintiff***) is a corporation, collection agency or landlord. The cases brought to conciliation court must be relatively simple. Complicated cases involving technical or constitutional issues will normally be handled only in a full civil jury trial. And as stated earlier, the amount in controversy cannot exceed $5,000.

There are many types of cases which are accepted in small claims court. For example, typical cases often involve disagreements over unpaid rent, property damage, auto accidents, contract enforcements, merchandise warranties, and faulty repairs. In some cases, the mere threat of legal action results in a quick settlement between the parties.

The person bringing a case to conciliation court (plaintiff) must complete a form provided by the court clerk. Information needed to complete the form includes names and addresses of the parties, the amount of the claim, and the reasons why the plaintiff is suing the defendant. The plaintiff has to pay a small filing fee ($25.00 or less) and make sure the defendant receives the notice. If the plaintiff wins, he or she can collect the filing fee from the defendant. The conciliation court clerk will then schedule the case, usually within thirty days.

A defendant may file a counterclaim against the plaintiff for any claims he or she may have. When this happens, both cases will be tried together.

Before trial, both parties need to collect items necessary to prove their side of the case; for example, repair bills, estimates, and photographs. Witnesses may testify to help prove the case. The conciliation court can issue subpoenas requiring witnesses to appear.

If a defendant fails to appear at the scheduled trial, the court will enter a ***default judgment*** against the defendant after the plaintiff has proven his or her claim. This means that the defendant has lost the case.

After the parties have presented their sides of the case, the judge usually takes the case under advisement. This means that the judge will research the law and issue an answer at a later date. Once a party has won, that person is responsible for collecting the amount of money awarded by the court. The process of collecting a judgment is difficult in some cases. Occasionally, a party will file to move the

Student Handout: A CASE FOR CONCILIATION COURT?

Which of the following disputes do you think can be settled in conciliation court? Be prepared to explain your answer.

1. A high school senior is expelled for wearing a swastika armband on a Jewish holiday. He seeks to sue to be re-admitted into school.

2. Jim Dean, 14 year old papercarrier sues Harold James, customer, for $12.40 overdue for delivery of daily newspaper.

3. Nineteen year old Bill Wright purchased marijuana from Reef Carlson (local dealer). He paid $40.00 as Wright was told the pot was only the finest South American import. Wright later recognizes the pot to be nothing more than low grade home-grown marijuana. He sues to receive a $25.00 refund.

4. Jane Wayne, homemaker, takes her 1985 Chevette automobile to "Quickie" tune-up clinic which guaranteed her a $29.00 tune-up. She returns to pick up her car and finds a $97.00 bill.

5. Tammy Reynolds, 15 year old foster child with the Wainwright family, seeks to have foster care arrangement terminated.

6. Jack Simmons, who owns an apartment building, is faced with expensive repairs after some rowdy tenants damaged the apartment. The tenants refuse to pay. Jack is suing the tenants for the $1,900 needed to fix the place up.

Student Handout: A CASE FOR CONCILIATION COURT? cont.

7. Dave Parker, professional basketball player, sues the Minnesota Timberwolves to recover $800,000.00 in past salary.

8. College junior Phil Hanson purchases $72.00 in used textbooks. When he bought the books, he was told that there is a no return policy but that he can sell the books back to the bookstore at the end of the term. Phil's class is cancelled and Phil sues the bookstore. He does not want to wait until the end of the term to get his money back.

9. High school senior Bill Waters is jilted by his sweetheart. He demands the return of his class ring which Connie refuses to give back.

10. Bill Mann, 24, purchases a $600.00 stereo system from a local electronics store. The system carried a 90-day warranty; after 100 days the system fails to operate. Bill takes the stereo back to the store. The owner promised to repair the system without cost and then charged $200.00.

11. Smalltown Community College has several students who owe payments on their student loans. Each of the students owes at least $4,000. Smalltown files a complaint.

Student Handout: THE CASE OF THE AUTO REPAIR

George Morris left his 1983 Mustang at Wendy's Repair Shop one morning for an estimate on work that needed to be done. George called Wendy later in the day and was told that front end work was necessary and would cost from $125.00 to $150.00. George told Wendy to go ahead and fix the car. The next day George went to the shop to pick up the car and was presented with a $220.00 bill. He refused to pay. The repair shop would not give up the keys without full-payment.

After five days of argument, George picked up the car, paying $220.00 for repairs plus $6.00 a day storage fee which came to a total of $250.00. George paid by check. He then stopped payment on the check and claimed that Wendy was entitled to nothing because of the fraudulent practices. Wendy filed suit against George for recovery of payment.

? What are the issues in this case?

? What are the arguments for each side?

Divide into groups of three: one person takes the role of George, one takes the role of Wendy, and one takes the role of the judge.

Conduct a conciliation court hearing. George, the defendant, presents his case last. Wendy, the plaintiff, presents her case first. The judge then takes a few minutes and decides how much, if anything, George should pay to Wendy.

(Written by Melinda Smith, New Mexico Law-Related Education Project)

Juvenile justice

Children have not always received special treatment under the justice system. Prior to 1899, no juvenile courts existed, and juveniles were treated the same as adults. This resulted in sentencing children to the same sentence (hanging, prison terms) and placing them in institutions with hardened criminals. The children emerged with worse behavior than before, and they had often been the victims of crimes while in prison.

Some individuals believed that children deserved better treatment. They thought that with appropriate treatment these young people would change their behavior, and they also believed that in some cases young people needed protection from other adults. They created the first juvenile court which soon grew into the juvenile justice system where legal problems facing juveniles (delinquency, neglect, etc.) are handled.

Through this lesson, students will understand the goals of the juvenile justice system, its advantages and disadvantages, and the basic steps in the juvenile process.

Students will:

1. Know the historical development of the juvenile justice system.
2. Understand the role of the juvenile court within the justice system and know the steps in the process.
3. Identify both strengths and weaknesses of the juvenile system.

Materials needed: Copies of **Student Handout: DETENTION,**
One copy of **Student Activity: EACH ONE TEACH ONE,** and
Overhead and student copies of **Juvenile Court Procedure**

Time needed: 2 class periods

Grade level: Grades 9-12

Procedure:

1. Introduce juvenile justice to the students by explaining to them that a separate court exists in the district court system that handles juvenile issues. Refer to the chart in the lesson **Minnesota courts.**

2. Tell students a brief history of the juvenile system. Explain to them that the system is one designed to take care of juveniles, to help them rehabilitate, rather than one to punish the juveniles.

3. Inform the students that they are going to help teach about the juvenile system. Make one copy of **EACH ONE TEACH ONE,** cut the facts into strips, and give each student one fact.

Procedure cont.

4. Ask each student to learn his or her fact.

5. Then ask the students to share their facts with other students in the class. This part of the activity may become quite noisy. Students move around the room reading or telling their facts to other students.

6. After the students have had enough time to share their facts with everyone else, instruct them to sit down in small groups.

7. Ask each small group to try to remember as many facts as they can, listing them on a sheet of paper. Students might be asked to put their own facts away, thus forcing them to recall their facts also. (This can be set up as a competitive activity, with recognition or reward going to the group that remembers the most facts.)

8. Discuss the facts the students remember. List them on the board. The facts can be grouped into several categories including history, certification, constitutional rights, comparison to adult court, facts about juveniles, and sentencing.

9. Discuss any facts the students did not remember. (Some facts might not be remembered because they are complex or because they were not shared effectively.)

10. Using an overhead of the chart on juvenile court procedure, briefly explain the steps in the process. Include:

A. ***Delinquent act committed.*** This can be a crime or a status offense.

B. ***Juvenile taken into custody.*** This can happen anywhere, at the scene of the crime, at home, at school. The juvenile is read his or her rights, is informed of the arrest, is often handcuffed, and is then taken to the police station.

C. ***Intake.*** Once the juvenile is charged with the offense, a decision is made whether to detain the juvenile at the juvenile detention center or release the juvenile to his or her parents. On some occasions, the parents cannot be reached or they do not want the juvenile to return home. The juvenile is then detained.

D. ***Detention.*** The juvenile is placed in a secure facility to wait for further action.

E. ***First hearing.*** This hearing is to decide whether to further detain the juvenile. All hearings are closed to the public, and the only persons at the hearings are judge, parents, juvenile's attorney, prosecuting attorney, and probation officer. Juveniles are provided with attorneys free of charge.

F. ***Second hearing.*** The allegation against the juvenile is read and the juvenile either admits or denies the allegation. If the juvenile denies the charge, a trial is held. (Juvenile trials are similar to adult trials but they are closed to the public-except in cases of felonies committed by juveniles

Procedure cont.

over age 16.) If a juvenile admits the allegation, the juvenile is adjudicated delinquent. (Juveniles who are at least 14 years old might be sent to adult court where he or she will be treated like an adult. This only happens after a long, involved certification hearing.)

G. ***Dispositional hearing.*** When a juvenile admits to the offense or is found guilty in a trial, a hearing is held to determine the next action. The judge has several alternatives from which to choose.

1. Give a firm warning (usually given in minor offenses).

2. Direct probation and counseling.

3. Send the juvenile to live in a group home, a large home of a limited number of juveniles living under adult supervision and attending school like other students.

4. Restitution for the victim, this may involve getting a job and giving the juvenile a certain period of time to pay the victim for the damage.

5. Foster care, most of the out-of-home placements are a result of bad family and home situations (the juvenile does not get along well with parents or there is a chemical dependency problem in the family).

6. Send to correctional facility.

7. Fined.

8. Ordered to do a certain number of hours of community service, such as cleaning parks, working with elderly.

11. Have students read **Student Handout: DETENTION**. Ask students to consider the advantages of being placed in detention (clean, warm place to think, meals provided, safe from outside threats) and the disadvantages (no choices, little privacy, feel like a criminal). Discuss what detention would feel like. Students who have been in detention might want to share their stories.

12. Ask students how they would feel differently if they were placed in adult jails. Is it good policy to treat juveniles different from adults? How does life change when a juvenile turns 18? (There is a debate surrounding the juvenile system. Some think that juveniles should be treated more like adults with the same constitutional protections as adults. Others think that the more informal, caring juvenile system is more effective.)

13. An outside resource person (juvenile defense lawyer, prosecutor, social worker, probation officer) would be helpful in answering student questions.

Student Activity: EACH ONE TEACH ONE

1. The juvenile court was established in 1899.
2. Before 1899, juveniles were treated the same as adults.
3. At one time, a juvenile was hanged for criminal behavior.
4. Today, a juvenile who is at least 14 years old can be tried as an adult.
5. Before a juvenile can be tried as an adult, the juvenile must be certified.
6. Certification to adult court can happen when a juvenile is not suitable to treatment in the juvenile system.
7. A juvenile over the age of 14 can be certified if he or she is a threat to public safety or if there is no treatment facility in the juvenile system.
8. Juveniles do not have all constitutional rights.
9. Juveniles do have the right to an attorney.
10. Juveniles do have the right to a trial where they can question witnesses.
11. In most cases, juveniles do not have the right to a public trial.
12. Juveniles do not have the right to bail.
13. Juvenile court is more informal than adult court.
14. In most cases, juvenile penalties are less harsh than adult penalties.
15. The terminology in juvenile court is different than in adult court.
16. Juveniles are taken into custody rather than arrested.
17. Juveniles do not commit crimes. Instead they commit delinquent acts.

Student Activity: EACH ONE TEACH ONE cont.

18. **Juveniles do not have trials, they have hearings instead.**

19. **Juveniles do not receive sentences, they receive dispositions instead.**

20. **There are no verdicts of guilty or not guilty in juvenile court, instead there are findings of delinquency or neglect.**

21. **Not all juveniles in juvenile court are present because they broke the law. Some are present because they need the protection of the court.**

22. **Juveniles commit two kinds of offenses: acts that are crimes for adults and juveniles and acts that are illegal only because a person is under age 18. These are called status offenses.**

23. **Examples of status offenses are running away and truancy.**

24. **Boys are taken into custody five times more often than girls.**

25. **The average age of a delinquent is 15-16 years.**

26. **There are more delinquents in big cities than in rural areas.**

27. **Approximately 60% of car thefts are committed by juveniles.**

28. **Although juveniles make up less than one-fifth of the population, they account for nearly one-half of all those arrested for serious crimes.**

29. **Juvenile violence has increased faster than crime generally.**

30. **Juveniles are less likely than adults to be arrested, convicted, and punished for criminal behavior.**

31. **After a juvenile reaches age 18, his or her juvenile records are used in determining a sentence for felonies committed between the ages of 18 and 21.**

Student Activity: EACH ONE TEACH ONE cont.

32. **Juveniles who are serving time in a juvenile detention setting are released when they turn 18.**

33. **Juveniles who have been certified and tried as an adult are sentenced like an adult and might not be released when they turn 18.**

Student Handout: DETENTION

Persons under the age of 18 are placed in juvenile detention during the juvenile detention process. They are not there as part of their punishment, but are there only as a temporary measure while they wait for hearings, trial, or placement into a group home or treatment center.

Although juvenile detention centers are different throughout the state, this is a description of a typical detention center stay.

Juvenile detention centers are secure facilities. This means that they have doors that lock the juveniles inside the building.

When a juvenile is first brought to the detention center, he or she goes through an initial screening process. Juveniles are asked to fill out an informational history sheet listing name, address, telephone number, age, name of parents, brothers, and sisters, where they attend school, grade, etc.

They are then taken into a room and told to take off all of their clothes and are strip searched. They are told to empty everything out of their pockets and to take off all jewelry. These items are placed into a plastic bag and held in the property room until the juvenile leaves. They are then directed to a shower and given shampoo and soap. After showering, they are given underwear, socks, tennis shoes, and a smock-type top and pants to wear. They are told that their street clothes will be washed and returned to them to wear as a second change of clothes.

They are then taken to either a long or short-term mod, depending on how long the juvenile is to remain in detention. The short-term stays last anywhere from a weekend to up to a week. The long-term stays are for more than one week.

A mod is a section of 12 rooms and a bigger group dayroom. There are one or two girl mods and the rest are for boys. The mods are divided by sex but not by the types of offenses the juveniles have committed. Therefore, there might be juveniles accused of property damage living in the same mod as someone accused of murder.

A typical day in the detention center begins at 9:00 a.m. when the juveniles get up. Each juvenile has his or her own room that measures about five feet by nine feet and contains a concrete slab with a mattress and bedding (no pillow), a stainless steel sink and toilet, and a window high on the outside wall measuring one foot by three feet made of bullet proof glass.

There is an intercom in each room through which music is piped in and instructions

Student Handout: DETENTION cont.

from the counselors are given. When a juvenile is in her or his room, the door is automatically locked from a central control panel located in a control room. All of the doors in the mod and the lights and water are controlled by the central control panel.

After waking, each juvenile must strip his or her bed, mop the floor of the room, scrub the walls of the room and clean the sink and toilet. The rooms are then inspected by the counselors.

All meals, including breakfast, are served in the big dayroom. Counselors and juveniles eat togetner. Breakfast is cold cereal. There are no sweets or desserts, instead fruit is served.

After breakfast, the rest of the day is broken into periods of about two hours each. During some of these periods, the juveniles can use the exercise equipment; be in the dayroom where there is a Ping-Pong table, television, and cards; participate in remedial school lessons; or be in their rooms for a quiet period. The day is entirely structured, and everyone in the mod participates in the same activity as the rest of the group.

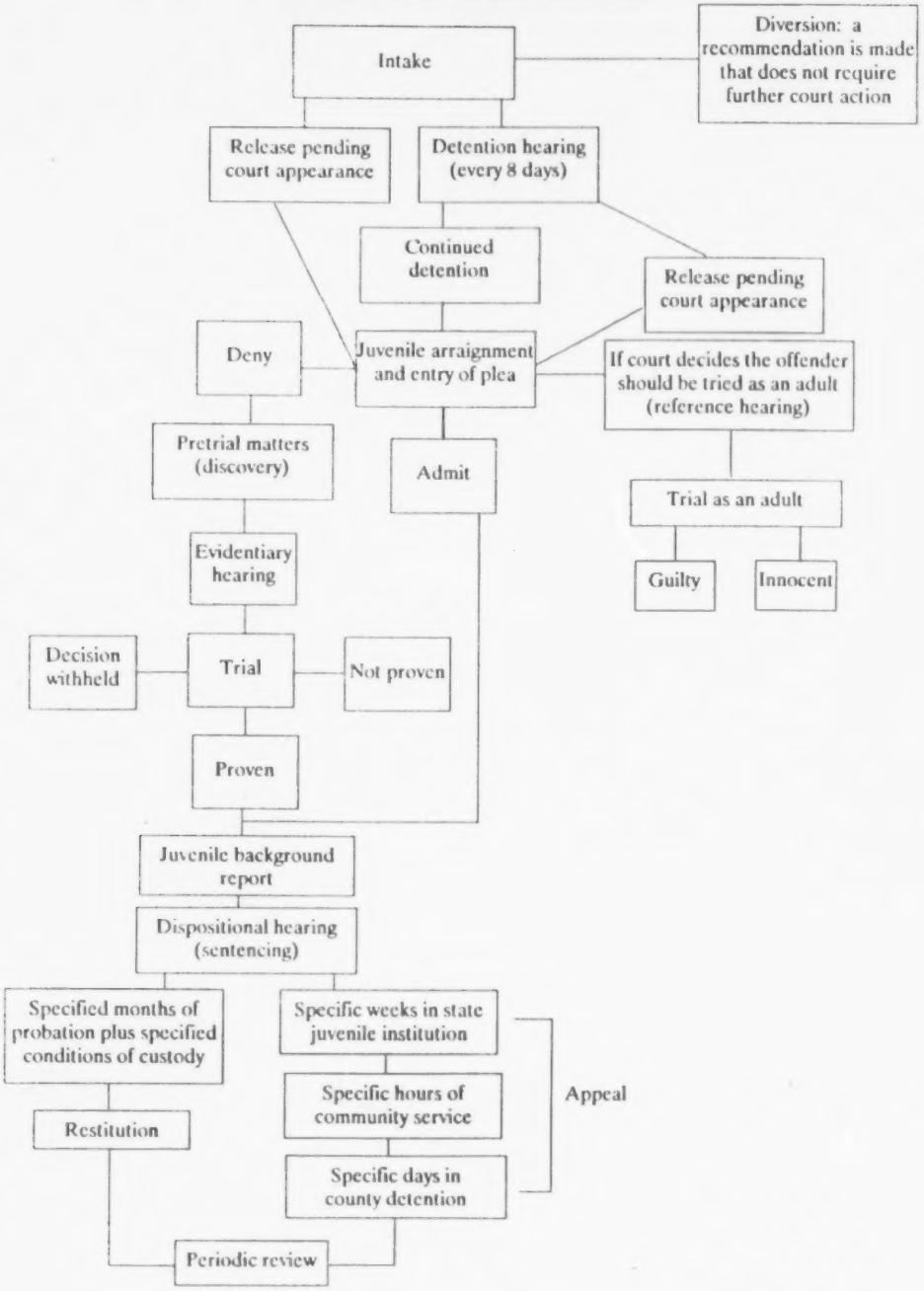
Each juvenile is allowed one telephone call per day lasting no longer than 15 minutes. These calls can only be placed to the juvenile's parents, attorney, or probation officer. These same people are allowed to visit one hour per day during the visiting hour.

Juveniles can write letters to be mailed to people outside, however, all outgoing and incoming mail is opened and read before it goes out or is distributed. There is a cart that comes around from the local library. Each juvenile is permitted to have up to three books at one time in his or her room.

Discipline is handled by counselors using a "time-out." Upon arriving at the detention center, each juvenile is given a handbook to read explaining the rules for behavior. There is no abusive or foul language permitted, each juvenile must treat the others with respect and courtesy, and there is no fighting and name calling allowed. If any of these rules are broken, the juvenile receives a time-out. This means that the juvenile must go to his or her room for two hours. All counselors carry walkie talkies to summon assistance if needed. If a juvenile continues to engage in unacceptable behavior, the time-outs are increased.

The average stay in the juvenile detention center is anywhere from three weeks to three months. In some exceptional cases, juveniles are in detention for as long as one to two years (usually involving juveniles who have been certified to stand trial as adults.)

Juvenile Court Procedure
(Offender only—does not apply to cases of adoption, child abuse or other issues related to social services)



Taken from *I'll See You in Court: A Consumer Guide to the Minnesota Court System,* Minnesota Supreme Court

BEST COPY AVAILABLE

Mini-mock trials

Mock trials conducted within one or two class periods help students learn about courts and trials in an interesting and enjoyable way. Although students obviously will not be as polished as they are in more lengthy mock trial programs, their abilities to quickly become familiar with trial process, to learn their roles, and to discuss rules of evidence and constitutional protections will surprise even the most seasoned observer.

In addition to the value of the learning experience for students, mini-mock trials are an excellent activity for lawyers who want a "guaranteed" success. With only little advance preparation, a lawyer can guide the students through the mock trial experience, helping them develop appropriate questions and then serving as the judge for the trial. Most lawyers are so comfortable with this activity, and find the positive student response so rewarding, that they are usually willing to schedule return engagements.

Students will:

1. Become familiar with the role of a trial court in solving disputes. They will also be introduced to court procedure and decorum.
2. Develop an appreciation for the importance of the various people in the courtroom.
3. Practice communication and critical thinking skills as they prepare and present their case.

Materials needed: Copies of **Student Handout: MOCK TRIAL PROCEDURE, JURY OBSERVATION SHEET AND CHECKLIST , JUROR BIOGRAPHY,** and **Selected Mini-mock Trial Cases**

Time needed: 2 class periods

Grade level: Grades 5-12

Procedure:

1. Begin the class session by discussing trials. Because most students have seen television programs such as "People's Court" and "Night Court," they already have some basic information. Ask them if they watch these programs. Then ask them to list the people who are present in the courtroom. This list will include:

- Δ lawyers
- Δ judge
- Δ jurors
- Δ witnesses
- Δ defendant
- Δ plaintiff
- Δ bailiff
- Δ police officers
- Δ clerk
- Δ court reporter
- Δ public
- Δ sketch artist

Procedure cont.

2. Discuss what these people do in the courtroom. Depending upon the sophistication of the audience and the time available, short discussions of the following topics can be conducted: trial by judge or jury; civil v. criminal trials; the need for a court reporter and court record; the constitutional right to a public trial; the controversy surrounding cameras in the courtroom; the reason for the courtroom decorum.

3. Select one of the cases and read the one paragraph summary of the facts to the students.

4. Ask the students to volunteer for the parts in the mock trial. Four students should be selected to be the lawyers for each side of the case. One student may present the opening statement, one the direct examination, one the cross examination, and the other the closing argument. Reserve discussion of objections for later.

5. Also assign students to roleplay the witnesses, bailiff, court reporter, media representatives and sketch artists (these students can write articles and prepare drawings for the articles), and members of the jury.

6. Before the start of actual trial preparation, briefly describe the steps of a trial as presented in the **Student Handout: MOCK TRIAL PROCEDURE.** Remind students that they will be helped through the process by the judge and that confusion at this point is expected.

7. If students have sufficient background and understanding of the trial process, explain the reasons and grounds for objections. (It is recommended that only a limited number of objections be allowed.) Refer to the list of objections in the trial procedure handout. If they lack knowledge, reserve discussion of objections until one occurs during the trial. (No matter how old the students are, one will object to a question during the trial. The objection might be made in the form of "She can't do that, can she?" or "This isn't fair!" Regardless of the language used, the students usually have made the objections at appropriate times. They are now ready to learn about objections.)

Explain to the students that objections are used when lawyers feel that the other side is not obeying the rules. All court procedures are governed by many rules. Lawyers are required to conduct the trial according to the rules. It is the judge's responsibility to decide if a lawyer has broken a rule. If a judge agrees that a rule has been violated, the judge ***sustains the objection.*** If the judge feels that the lawyer has not violated the rules, he or she ***overrules the objection.*** If an objection is sustained, the witness's answer is not allowed. If an objection is overruled, the witness is allowed to answer the question. (The rulings by the judge often are the grounds for appeals to higher courts.)

8. Tell students they will have approximately 15 minutes to prepare. Although this is a short period of time, the facts of the cases are simple and a longer period of time results in a restless jury.

Procedure cont.

9. Provide the following instructions:

Lawyers--Tell them to read the facts and all of the witness statements (including the witnesses for the other side). They are to prepare an opening statement, questions for all witnesses, and a closing argument. Have them use the trial procedure handout in their preparation.

Witnesses--Tell each witness to read his or her statement at least three times so that he or she will be prepared to answer questions. Each witness should then work with the lawyers from their side to help prepare questions.

Judge--Tell judge to read the trial procedure handout and be prepared to call the witnesses.

Bailiff--Tell bailiff to review the procedure for the oath that he or she will administer to each witness.

Jurors--Ask them to imagine who they will be in twenty years and complete **JUROR BIOGRAPHY** form. Tell jurors to review the **JURY OBSERVATION SHEET AND CHECKLIST** and to use this form during the trial.

10. Begin the trial. The trial will take 45 minutes to 1 hour. ***Remember, the goal of this activity is to increase the students' knowledge of courts and trials.*** Do not expect them to sound like experienced trial lawyers. You will enjoy watching them develop their questions and arguments on objections and listen to the answers with great care.

11. Instruct the jury at the end of the trial using the jury instructions contained in each trial. Mock trial juries usually require only a few minutes to reach a verdict. After they have announced the verdict, ask them to explain how they decided on it. (Jurors may choose a foreperson as they did in **You Decide: A Jury Simulation** and complete the **JURY FORM** contained in that activity.)

12. Debrief the trial. Encourage all students to participate in the discussion of the trial. Questions that facilitate discussion include:

- **Q.** Who was the most important person?
- **Q.** Could the trial take place without the judge? (Yes, another judge could be used.)
- **Q.** Without the lawyers? (Yes, other lawyers could be used.)
- **Q.** Without the witnesses? (No)
- **Q.** Did any of the students change their minds during the trial? When and why?
- **Q.** Who was the most believable witness? Why?
- **Q.** Are there other ways that the problem could have been settled? What would have been the advantages or disadvantages?

13. Complete the activity with a short discussion of the need for citizens to participate in the process. Ask them what they will remember to do if they witness an action or are asked to serve on a jury.

Student Handout: MOCK TRIAL PROCEDURE

Participants:

- Δ Judge
- Δ Prosecution attorneys
- Δ Defense attorneys
- Δ Jury
- Δ Representatives of the media (sketch artist, reporter)
- Δ Bailiff
- Δ Witnesses for prosecution
- Δ Witnesses for defense
- Δ Court reporter

Opening of trial:

Bailiff: "Please rise. The Court of _____ is now in session, the Honorable _____ presiding."

Everyone remains standing until the Judge is seated.

Judge: "Ms./Mr. _____(bailiff's name), what is today's case?"

Bailiff: "Your Honor, today's case is _____."

Judge: "Is the prosecution ready? Is the defense ready?"

Attorneys: "Yes, your Honor." (Always say "your Honor" when speaking to the judge.)

Trial Procedure:

1. **Opening Statement** - prosecuting attorney introduces himself or herself and states what their side hopes to prove. Begin with "Your Honor, members of the jury," then state what the facts on your side will show and ask for a guilty verdict.

Defendant's attorney then says "Your honor, members of the jury," introduces himself or herself and explains the evidence on his or her side that will deny what the prosecution is attempting to prove. Ask for a not guilty verdict.

Attorneys: "Your Honor, members of the jury, my name is _____ and I and my classmates are representing_____ in this case. We intend to prove _____
_____
_____
Please find the defendant_____.

2. **The Oath** - All witnesses are sworn in before they begin answering questions. This is to remind them that they must tell the truth.

Bailiff: "Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?"

Student Handout: MOCK TRIAL PROCEDURE cont.

3. **Direct Examination** - prosecution asks its first witness to take the stand. Prosecutor asks the witness clear and simple questions that allow the witness to tell his or her side of the story in his or her own words. Witnesses may make up answers to questions that are not included in the witness statements or the witnesses may say "I don't know."

Suggestions for questions:
How do you know the defendant?
What do you know about the case?
What happened?
What to you remember?
What happened next?
Remember to ask questions that will let the witness tell the complete story.

Your Questions

1.
2.
3.
4.

4. **Cross examination** - defense attorney questions witnesses for the prosecution to try to prove that the witness is lying or can't remember. For example, the lawyer may ask "Isn't it true that you really couldn't see because it was almost dark outside?"

Suggestions for questions:
Isn't it true that . . .
If possible, ask questions that call for a yes or no answer.

Your Questions

1.
2.
3.
4.

5. After all the prosecution witnesses have been questioned and cross-examined, the defense calls its witnesses and questions them under direct examination. Then the prosecutor cross-examines.

Student Handout: MOCK TRIAL PROCEDURE cont.

6. Closing argument - prosecuting attorney summarizes the testimony presented during the questioning in a way that will convince the jury to believe the prosecution's side of the case. Prosecution asks the jury to find the defendant guilty.

Defendant's attorney summarizes the testimony in a way that makes the defendant look not guilty. Defense then asks the jury to find the defendant not guilty.

Attorneys: "Your Honor, members of the jury, today you have heard testimony about _____
_____
_____

I would like to remind you of some important information that you should consider in your decision. These facts include _____
_____
_____

Please find the defendant_____.

7. Jury deliberations - after hearing the judge's instructions, the jurors meets to decide guilty or not guilty, and then gives their verdict to the judge. Members of the jury should use the **JURY OBSERVATION SHEET AND CHECKLIST**, which they completed during the trial.

Objections

Either the prosecutor or the defense attorney may object to a question or the admission of an exhibit. The judge will usually ask the person objecting "on what rule of evidence are you relying?" Then the judge either sustains the objection preventing the evidence from being introduced or overrules the objection allowing the question or exhibit to be admitted as evidence.

Reasons for objections (also known as ***grounds for objection*** or the ***Rules of Evidence*** being relied upon):

Leading questions: Prosecutors must allow their witnesses to tell their own story; they must not lead their witnesses through the story. Defense attorneys must follow the same rule when questioning their witnesses.

Immaterial and irrelevant: The information is not closely related to the case, and is therefore, not important.

Opinions and conclusions: Unless the witness is an expert, (such as a doctor testifying about medical issues) he or she should not give opinions or conclusions.

Nonresponsive answer: The witness is not answering the question asked.

These are only a few objections. They are probably the most common ones used. They will adequately serve your needs.

JURY OBSERVATION SHEET AND CHECKLIST

The jury will determine whether the defendant is guilty or not guilty based upon the facts of the case, the credibility of the witnesses' testimony, and the law which applies to the case. Use this sheet to follow the proceedings of the trial. As the prosecution presents its case, record the legal arguments made by the attorneys, facts presented by the witnesses and your impressions of the credibility (believability) of the witnesses.

Prosecution

Prosecution's Opening Statement: What did the prosecution say it would try to prove in this case?

FACTS learned from witness testimony

Witness #1: _____

Witness #2: _____

Witness #3 _____

To Believe or not to Believe?

Circle the response which most closely corresponds with what you think of each witness:

SA- strongly agree A-agree D-disagree SD-strongly disagree

Witness #1	_____	was a believable witness	SA	A	D	SD
Witness #2	_____	was a believable witness	SA	A	D	SD
Witness #3	_____	was a believable witness	SA	A	D	SD

Prosecution's Closing Argument: How did the prosecution use the facts from the witnesses to prove its case?

JURY OBSERVATION SHEET AND CHECKLIST cont.

Defendant

Defendant's Opening Statement: What did the defense say it would try to prove in this case?

FACTS learned from witness testimony

Witness #1: _____

Witness #2: _____

Witness #3 _____

To Believe or not to Believe?

Circle the response which most closely corresponds with what you think of each witness:

SA- strongly agree A-agree D-disagree SD-strongly disagree

Witness #1 _____	was a believable witness	SA	A	D	SD
Witness #2 _____	was a believable witness	SA	A	D	SD
Witness #3 _____	was a believable witness	SA	A	D	SD

Defendant's Closing Argument: How do the facts presented by the witnesses support the defendant's case?

JUROR BIOGRAPHY

Name/Address

County

Phone #

Spouse's name

Name/Ages of children

Parent's name

Education completed

Height	Weight	Eye color

Physical Condition

Religious affiliation

Occupation

Employer

Salary

Organizations of which you are a member

Military service

Public service

Hobbies\Interests

Most memorable childhood event

Have you had any contact with the legal system. If so, what

Other pertinent information about yourself

BEST COPY AVAILABLE

Selected
Mini-mock trial cases

Criminal Mock Trial
District Court

State of Minnesota,	)
Prosecutor	)
	)
vs.	)
	)
Alli,	)
Defendant	)

FACTS

There has been in increase in drug abuse at Jackson School. Three students were recently caught possessing large amounts of marijuana and other drugs with intent to sell to other students. They are currently being held in a juvenile detention center.

The school administrators hired an investigator to look into the problem. The investigator, Norman Tilman, decided random searches of lockers and student belongings would reduce the problem.

Mr. Tilman performed the searches for many days and found no signs of drugs. On Tuesday, April 22, Mr. Tilman began another search. The lockers, backpacks, and purses of ten students were searched. Matt and Alli were two of the students whose belongings were searched. Mr. Tilman searched Alli's backpack which she had purchased at a garage sale on Saturday, April 19. Mr. Tilman found a small amount of marijuana in a zippered compartment on the inside of the backpack. Alli claims to know nothing about the marijuana. She is now being charged with possession of marijuana, a violation of Minnesota law.

ISSUE: Did the marijuana in Alli's backpack belong to her?

DEFENSE: Alli purchased the backpack from people who had been known to use marijuana in the past. Alli claims the marijuana must have been placed in the backpack before she purchased it and that she knows nothing about it.

WITNESS STATEMENTS

Prosecution Witnesses

Mr. Tilman, P.I.
Matt, classmate
Sandy, science partner

Mr. Tilman, Private Investigator

I have been a private investigator for ten years. Before that, I was a police officer for seven years. In the last five years, I have worked with many schools in trying to solve the drug problems. I recommended to the administrators at Jackson School to start searching the lockers and student belongings. I believe this helps to reduce the drug use in the schools.

On April 22, I was searching ten students' lockers and belongings. When I reached Alli's backpack, I found a small amount of marijuana in a zippered compartment in the inside of the backpack. It was a good place to hide the marijuana, because the inside compartment is hard to see and I almost missed it. I asked Alli if the marijuana was hers. She said she didn't know anything about the stuff. She was very embarrassed.

Matt, classmate

I was one of the ten students in the search. Mr. Tilman went through my locker and my backpack before he searched Alli's things. I was standing next to Alli. She seemed nervous when Mr. Tilman started the search. I saw Mr. Tilman pull the marijuana out of Alli's backpack. She said "Oh no!" and then said she didn't know anything about it.

I have been going to school with Alli since I moved to this city four years ago. As far as I know, Alli has never been in trouble. She has a few friends who get into trouble, but she's a good kid.

Sandy, science partner

I am Alli's science partner. We do all of our experiments together. Recently, Alli hasn't been completing her parts of the assignments. She blames it on all of the other school activities she is involved in. I think she has some other problems. She seems confused when she is in class. In fact, last week, she made some mistakes in a chemistry experiment which caused a small explosion. No one was hurt and there was no damage, but I was pretty scared. Alli and I have been friends for a long time.

WITNESS STATEMENTS

Defense Witnesses

Alli, defendant
Rob, Alli's cousin
Ms. Swanson, band director

Alli, defendant

I know nothing about the marijuana that was found in my backpack on April 22. I purchased the backpack at a garage sale on Saturday, April 19. The sale was at the house of a group of adults who have lived there since they graduated from college in 1976. I went to the sale with my cousin, Rob, who lives next door to the house. The backpack was in good shape, and very cheap, so I bought it. I never dreamed it would get me into this much trouble.

I am a good kid. I have never been in trouble before, except for being asked to leave class because I was talking too much. I am involved in lots of extra activities. I am on the dance line, play clarinet in the band, and am a member of the girls track team. I work part time at a neighborhood grocery store.

Rob, Alli's cousin

I was with Alli when she bought the backpack. We found it at a garage sale next door to my house. The house is owned by a bunch of adults who used to be "hippies." I remember when they had lots of very loud parties that would end when the police came to break them up. Once my mom helped one of the men fix the lawnmower and they offered her some marijuana as a thank you.

My cousin never gets into trouble. She doesn't use drugs.

Ms. Swanson, band director

I am the band director. I have had Alli in my music class and in the band for several years. She is very talented and hard working. She spends much of her free time practicing with a few of the other students. I have noticed recently that she seems a bit distracted, but that's normal in the spring. I don't think Alli uses drugs.

INSTRUCTIONS TO THE JURY

The prosecution must set out such a convincing case against the defendant that the jury believes *"beyond a reasonable doubt"* that the defendant is guilty.

THE LAW

It is a petty misdemeanor to possess or give away a small amount of marijuana. The law defines a small amount of marijuana as 42.5 grams or less. For the first offense, the court may fine the person up to $200 and require him or her to participate in a drug rehabilitation program.

CRIMINAL MOCK TRIAL
DISTRICT COURT

State of Minnesota,)
Prosecutor)
)
vs.)
)
Jesse Sunderson,)
Defendant)

FACTS

On January 7, 1987 at 1 p.m. many firecrackers exploded in an empty locker at Jefferson School, causing great damage to the lockers and the walls. Luckily, no one was injured. Mr. Stuart, the assistant principal, searched the other lockers and found more firecrackers in a locker assigned to Jesse Sunderson. Jesse has been charged with possession of firecrackers and damage to property.

ISSUES: Did the firecrackers belong to him and did he put them into the empty locker?

DEFENSE: Jesse will try to prove that he is a victim of retaliation. Because he informed Coach Price about the use of alcohol by two students, Jesse believes the two students planted the firecrackers in his locker.

WITNESS STATEMENTS

Prosecution Witnesses

Leslie Stuart, Asst. Principal
Mickey Price, coach

Leslie Stuart, Assistant principal

I have been the assistant principal at Jefferson School since 1979. Before that I was a social studies teacher at Olsen High school.

On January 7, 1987 I was called to the west wing after an explosion which damaged the lockers and the walls. I looked over the damage and quickly decided that I had to make certain that there were no more firecrackers in the lockers so I used my master key to open the lockers. In locker 633 I found a large grocery bag full of unexploded firecrackers. I took the firecrackers to my office and looked up the student assigned to locker 633. The student was Jesse Sunderson. I then called the police.

Mickey Price, the coach

I have been a coach at Jefferson for the last three years. Jesse Sunderson is on my soccer team. I had a meeting with Jesse's parents and Jesse a week ago. I explained that Jesse was being suspended form the team because of poor grades. The school has a policy that all athletes must maintain a B-average to play in school sports. Jesse's average has slipped to C-. Jesse became very angry and complained that it wasn't fair to suspend one player for poor grades, while other players could keep playing even though they were using alcohol. Upon questioning, Jesse gave me the names of two other players who have since, after much investigation, also been suspended.

WITNESS STATEMENTS

Defense Witnesses

Jesse Sunderson, Defendant
Erin/Aaron Thompson, classmate

Jesse Sunderson, the defendant

I did not plant the firecrackers in the empty locker, and I have no idea how the firecrackers got into my locker. I am a good student, I participate in sports and music activities, and I have a part-time job delivering newspapers.

I usually get along with the students at Jefferson. Except at the moment, a couple of kids are very angry with me for telling the coach that they drink beer. I told on them because I didn't think it was fair to punish me for breaking a rule and not punish others. I heard them tell some other kids that they would "get back at me!" I think they might have planted the firecrackers in my locker.

Erin Thompson, a classmate

I am a seventh grader at Jefferson. I am a member of the Marching Band. I like school a lot and spend most of my time working on my computer or talking with my best friend.

I have a locker next to one of the kids who was suspended from the soccer team. I heard the student blaming Jesse for all his problems. I also saw this student with some friends walking down the hall in the west wing a few seconds before the explosion. I was on my way to the office to meet my older brother who was taking me to the orthodontist.

INSTRUCTIONS TO THE JURY

The prosecution must set out such a convincing case against the defendant that the jury believes *"beyond a reasonable doubt"* that the defendant is guilty.

THE LAW

609.595 DAMAGE TO PROPERTY

Aggravated criminal damage to property.

Whoever intentionally causes damage to physical property of another without the latter's consent may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both if the damage to the property caused a reasonably foreseeable risk of bodily harm.

624.21 SALE AND USE OF FIREWORKS PROHIBITED.

Except as otherwise provided in sections 624.20 to 624.25, it shall be unlawful for any person to offer for sale, expose for sale, sell at retail, or wholesale, or use or explode any fireworks.

Civil Mock Trial
District Court

Jesse ,		)
	Plaintiff	)
		)
vs.		)
		)
Ed Tower,		)
	Defendant	)

FACTS

Jesse and Lurline had looked for an apartment for several weeks. After living with Lurline's family for over a year, they were very excited to find their own place. Although they are quite young, they can afford to spend quite a bit of money for their apartment because they both have good paying jobs. Jesse is a research specialist for a chemical company and Lurline is an accountant. They have only been working a few months but they have been able to pay off all of their other bills because they saved money living with Lurline's mother and sisters.

Jesse and Lurline want to live in the part of town where they work. There are several nice neighborhoods nearby. One neighborhood, Adams Park, has many nice apartment buildings along a river that runs through the middle of town. Most of these apartment buildings have vacancies because the tenants were forced to move when the town's largest company moved to a different state.

Jesse and Lurline found the perfect apartment, which was shown to them by the building manager. They put $50 down to hold the apartment and left a rental application with the manager. The manager said that he thought there would be no problem with the application and told them to plan to move in the next month.

Two days later, Jesse was called by the owner of the building, Ed Tower. Ed said that the credit check that had been done on Jesse showed that he had frequently been late in paying his bills. Ed then said that the rental application had been denied. He claimed the denial was based on Jesse's bad credit rating. However, Jesse and Lurline believe that their application was turned down because they are African American and that all of the current tenants in the building are Caucasion. They are suing Ed Tower for violating Minnesota's discrimination laws.

ISSUE: Did Ed Tower violate Minnesota's housing discrimination laws?

DEFENSE: The credit check Mr. Tower ran indicated to him that Jesse might be a bad risk and that it would be difficult to collect the rent from him.

WITNESS STATEMENTS

Plaintiff Witnesses
Jesse, Plaintiff
Jody, tenant
Terry, credit manager
Bill, Jesse's boss

Jesse, Plaintiff

My name is Jesse. I am 26 years old. I am African American. I graduated from the University of Minnesota with a science degree, and I work for a chemical company as a research specialist. I have only been working for a couple of months.

While I was a student, I did not have much money. Most of the money I made on part-time jobs was used to pay for my tuition and books, and a little was used to pay rent. I lived with three other men in a small apartment near campus. The last month we lived together, one of my roommates who was responsible for paying the rent collected our portions of the rent but failed to pay the landlord. Instead he took off with our money. I have been trying to find him since.

Because I did not have much money, I was very happy when I received credit card applications in the mail. I thought that these credit cards would let me live the lifestyle that I wanted without worrying about paying the bills. I was wrong. After several months of spending, I found myself in deep debt. I have been paying off the bills since. Last month, I finally paid off the last bill.

Jody, a tenant in the apartment building

I have lived in Ed's apartment building for about a year. During that time I have seen several persons of color look at the apartments, but have never known any to move in. One time, I even heard the building manager make some racist comments after showing the apartment to a Native American women. He said something like "I sure won't rent to her, she will bring nothing but trouble." After Jesse and Lurline looked at the apartment, I ran into the manager in the hall. I asked about Jesse and Lurline and he said that doubted that they would be accepted. I asked him why and he said, "Well, you know."

PLAINTIFF WITNESS STATEMENTS cont.

Terry, a credit manager

I work for a credit report company. I have done this kind of work for over 20 years. In my time, I have seen many different kinds of credit histories, including many like Jesse's. Often times, kids who are in school or are recent graduates are pretty bad at handling money and they soon find themselves in credit trouble. But these kids usually straighten their problems out and are good credit risks after that. Jesse's spending patterns in the past few months show that he has changed his ways and will be much more responsible in the future.

Bill, Jesse's boss

Jesse has been working for me for the past few months. He has really impressed me and his co-workers with his hard work and enthusiasm. In fact, I seriously believe that he will soon be promoted into a supervisory position which will include a significant pay raise. It is hard for me to believe that he let his spending get out of control in the past. He seems so careful with his money now.

WITNESS STATEMENTS

Defense Witnesses
Ed Tower, defendant
Carter, building mgr.
Delena , credit manager
Shelly, former landlord

Ed Tower, defendant

My name is Ed Tower. I am part American Indian. I own the apartment building in question. I own many other buildings in the neighborhood. I take a lot of pride in my buildings. Most of my tenants are professional people who stay for several years. I never have any trouble and they almost always pay their rent on time.

I decided to turn down the application for Jesse and Lurline because Jesse had a bad credit history. I don't want to spend my time trying to collect rent from a "deadbeat."

Carter, building manager

I am the building manager. I have been manager for six years. In that time, I have shown apartments to many people. Because the building is a very nice building, lots of people complete rental applications. But, my boss is quite fussy about who rents in the building. He does not want trouble and doesn't like folks who don't pay the rent on time.

I used to be the manager in a building that had lots of tenants of color. Most of them were single moms who received some kind of welfare assistance. They frequently did not pay their rent on time. I'd like to see some folks of color who have good jobs move into my new building, it's so nice.

Delena, credit manager

I am credit manager at the local credit reporting company. Ed is an old friend of mine who brings all of his credit check business to me. I did the credit check on Jesse. I told Ed about his failure to pay bills when due and said that I felt that he would be a bad risk because of his history. I value Ed's business and try to make sure that he rents to people who are not going to be a problem.

Shelly, former landlord

I rented an apartment to Jesse when he was a student at the University. He lived with three other men. One of the other men was the person who gave me their monthly rental payments. The last month, he failed to pay the rent, and I was forced to evict him and his friends. They were quite angry when they moved out and they left the apartment a mess.

INSTRUCTIONS TO THE JURY

The plaintiff must set forth a case that proves by a *"preponderance of the evidence* " that the defendant is guilty of the charge.

THE LAW

Minnesota Statute 363.03, subd. 2:

It is an unfair discriminatory practice:

(1) For an owner, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease any real property , or any agent of any of these:
(a) to refuse to sell, rent, or lease or otherwise deny to or withhold from any person or group of persons any real property because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status.

Appeals

In some cases, individuals who have taken their dispute to court do not agree with the decision of the court. They might feel that the court erred in ruling on the admission of evidence or in the application of the law. They might feel that the evidence presented did not support the decision. For whatever reason, people often consider appealing their case to a higher court. When legal grounds for the appeal exists, such as the reasons presented above, an appeal might be wise. In other cases, where there is no legal basis, appeals are a waste of time and money. Lawyers help their clients decide if an appeal is warranted.

Cases are appealed to ***appellate courts***. In Minnesota, most cases are appealed to the Minnesota Court of Appeals. A limited number of cases are appealed directly to the Minnesota Supreme Court. (See the chart provided in the lesson **Minnesota courts.**) Cases on appeal are different than trials. The judges on the court listen to arguments presented by the lawyers representing the parties in the case. There are no witnesses. There is no jury. Instead, the judges review what happened at the trial, listen to the arguments of the lawyers (presented during an oral argument or in a written brief), and decide the case.

Students learn about the appeal process through moot court simulations. By developing and presenting an argument to the judges, students develop an understanding of appellate procedure as well as constitutional issues argued. The format is adaptable to any trial court decision that has grounds for appeal or as a reenactment of Supreme Court decisions. Students can research prior case law as precedent for the issue before the court or simply apply their understanding of the law to the case. However the simulation is used, students will have the opportunity to prepare and present arguments that support their side of the case before judges on an appellate court.

Students will:

1. Know the role of an appellate court in our judicial system.
2. Understand appellate court procedure and decorum.
3. Analyze issues of constitutional law.

Materials needed: Copies of **Student Handout: CASE STUDY FOR MOOT COURT ACTIVITY,**
INSTRUCTIONS FOR ATTORNEY TEAMS,
INSTRUCTIONS FOR JUSTICES, and
INSTRUCTIONS FOR LAW CLERKS

Time needed: 2 class periods

Grade level: Grades 9-12

Procedure:

1. Begin the class session by asking, "Who decides if a trial has been fair?" "Who has the last word in deciding what the Constitution means?" "What is meant by a court of last resort?" "What is a 'higher' court?"

2. Explain background on appellate procedure:

A case begins in a trial or district court. It is here where witnesses testify, lawyers ask questions, and judges or juries make decisions. A trial court is said to have ***original jurisdiction*** because it hears a case for the first time.

If a person who loses a case in a trial court wishes to appeal a decision, he or she would take the case to a court with appellate jurisdiction. In the federal court system, the U.S. Court of Appeals is the first court of appellate jurisdiction. After that a case would go to the U.S. Supreme Court which has the final say.

There are no jury trials in appellate courts. Rather, they are ***courts of review*** which determine whether or not the rulings and judgment of the lower court are correct. The party who brings the suit to the reviewing court is referred to as the ***petitioner*** or ***appellant***. The petitioner argues that the lower court erred in its judgment and seeks a ***reversal*** of the lower court's decision. The party who won at the lower court must now argue against the setting aside of the judgment. This party, the ***respondent*** or ***appellee***, wants the appellate court to ***affirm*** or agree with the lower court's decision.

The first step in the appellate process, after the filing of a ***Notice of Appeal,*** is the submission of ***briefs*** by each party. Each brief identifies the facts of the case, the issues of fact and law, how the trial court ruled, and legal arguments using case law that will persuade the appellate court to affirm or reverse the lower court.

After the briefs are completed, ***oral arguments*** might be scheduled to answer questions the judges might have. Unlike trial court procedure where many witnesses testify in court, oral arguments are only presented by attorneys. Each lawyer is given a limited amount of time (usually 30 minutes) to present their argument before a panel of judges. The petitioner argues first because their client has brought the appeal to the higher court. Respondent's argument will immediately follow. Before petitioner begins, he or she may reserve time for a rebuttal following the respondent's argument. Judges frequently interrupt the attorneys to ask clarifying questions.

Following the oral argument, judges meet together and discuss the merits of the case. Judges will vote, and the majority viewpoint becomes the judgment. A judge for the majority will write the ***majority opinion.*** Those judges who disagree with the majority may write a ***minority*** or ***dissenting opinion.***

3. Select a case for the moot court. (A case on religious freedom including discussion of law for students and notes for teachers is provided.) Review the background and facts of the case. Identify which parties are the petitioner and respondent. Determine each side's position before the appellate court. Clarify the issues in the case by listing arguments for each side.

4. Divide the class into attorney teams of four to six students and assign to each team the position of petitioner or respondent. They will prepare arguments to support their positions and present these to

Procedure cont.

a court of nine justices. Each side is allowed four minutes for its presentation. **(See INSTRUCTIONS FOR ATTORNEYS)**

An uneven number of justices should be selected including a chief justice. (The Minnesota Supreme Court has seven justices and the U.S. Supreme Court has nine.) They will listen to the attorney arguments and interrupt to ask questions. After oral arguments, the chief justice will lead a five-minute conference in which justices present their views of the case. Each justice will try to persuade the others to agree with his or her interpretation of the case. At the end of the conference, the justices take a final vote. The chief justice may assign a justice to present the decision of the court to the class. **(See INSTRUCTIONS FOR JUSTICES)**

5. Remaining students might act as law clerks in helping justices understand the case. (In Minnesota, judges on the Court of Appeals and the Supreme Court each have two law clerks that help research the law and develop the opinions. Law clerks are lawyers who are recent law school graduates.) Assign each clerk to a particular justice. They will meet together during preparation time and discuss the case. **(See INSTRUCTIONS FOR LAW CLERKS)**

As an alternative, select second attorney teams to present additional arguments.

6. Depending on the purpose of the activity, preparation time will vary. A complex case requiring additional research may be an outside assignment. A simpler "self-contained" case need only take fifteen minutes of preparation time as students work together.

7. Conduct the Moot Court Activity.

A. ***Room Set-Up.*** Justices should be seated together in a row facing the class. Attorneys can present their arguments by standing in front of the court or seated as a group.

B. ***Oral Argument.*** (15 minutes)

Have one student announce that court is in session and have students rise as the justices enter the room. The chief justice will open court by announcing the name of the case. He or she will then ask the petitioner's attorneys to begin their four-minute argument. At any time, the justices may ask questions. Attorney teams should answer questions before continuing the argument. Respondent's attorney will follow. (You may adapt format by allowing a rebuttal by petitioner. This offers student attorneys a second chance to make their argument after they become comfortable with the format.)

After oral arguments, the chief justice adjourns the court.

C. ***Follow-Up Conference*** (5 minutes)

Justice conferences are done in private. However, for this activity a **"fishbowl conference"** will allow the class to observe the discussion. Justices sit in a circle in the middle of the room with the rest of the class forming an outer circle where they can easily hear and see the discussion.

The chief justice will ask each justice for his or her view of the case. He or she will then facilitate an open discussion before calling for a final vote.

Procedure cont.

8. Debrief the Moot Court activity. Encourage all students to participate in the discussion. Questions that facilitate discussion include:

A. Do you agree or disagree with the decision of the court? Compare the class's decision with the actual case.

B. What attorney arguments were most convincing to you? Why?

C. Were the questions asked by the justices helpful to the process?

D. What do justices consider in deciding how to vote on a case?

E. Did you change your mind about the case after listening to the attorney arguments? Judge's conference?

F. Why are appellate courts important in our judicial system?

INSTRUCTIONS FOR ATTORNEY TEAMS

Organize your argument in outline form including the following information:

1. A clear, brief statement of your position and at least two arguments or reasons why the court should adopt your position.

If you represent the petitioner your position is that the lower court made a wrong decision. Why? Your argument may focus on whether or not a law is constitutional, trial procedure was fair, or actions by government officials were proper.

If you are representing the respondent your position is that the lower court made the right decision. Why? Defend the lower court's position as well as counter the charges made by the other side.

2. Facts from the case that support each argument with an explanation of how each fact supports it.

3. Explanations of any Supreme Court decisions that support your arguments.

Sample Outline

1. Petitioner's Case
   - A. Introduction and statement of position
   - B. Supreme Court decisions that support argument
   - C. Request for action (uphold trial court or reverse trial court)

Use this outline in your four-minute presentation. Decide which team member(s) will present the information.

Finally, assign at least one team member to answer the justices' questions. He or she should prepare by carefully reviewing the case description.

Oral Argument:

Begin your argument by saying:

"May it please the court, my name is _____ *and I represent* _____ *in this case."*

Then continue with your argument. Be prepared to stop when a justice asks a question. The attorney team member assigned to questions should answer. Continue presenting your case until the next question is asked. Try to conclude your argument by restating the action you would like the court to take. Remember that your time may be taken up with answering questions.

INSTRUCTIONS FOR JUSTICES

To prepare for oral arguments, justices should meet with their assigned clerk and review the case. What is unclear to you? What facts do you want clarified? Does a position need more explanation? Together develop questions to be asked by justices during oral arguments. Remember justices can interrupt attorney presentations to ask questions.

Justices and clerks can also review previous court decisions that relate to the issue presented in the case. The court tries to follow previous decisions in order to promote consistency and stability in the legal system. Should the court follow its earlier decisions ***(precedent)*** or should the court abandon precedent and create new rules? As a justice, you must decide this case.

ROLE OF CHIEF JUSTICE

During the Moot Court Activity you may:

1. Extend the time limits of the attorneys' presentations if you or another judge feel it is necessary.

2. Maintain order in the courtroom by insisting that only one individual speak at any one time and that all statements by the attorneys be directed to the court and not to the attorneys representing the other side in the case.

At the follow-up conference:

3. Insist that each judge be initially allowed to express his or her views regarding the case without any comments of questions from the other judges.

4. Provide the judges with the opportunity to question the positions of the other judges and convince them of the merits of their own views.

5. Take a formal poll of the judges and assign one judge to be in charge of presenting the court's majority opinion. If a dissenting or minority opinion exists, provide dissenting judges an opportunity to present their opinion.

INSTRUCTIONS FOR LAW CLERKS

Law clerks are responsible for such tasks as reading all the appeals filed with the court, writing memos summarizing the key issues in each case, and helping prepare court opinions by doing research and writing drafts.

In this activity, law clerks should read carefully all documents about the case and any relevant Supreme Court decisions. You will discuss the case with your assigned justice and help him or her prepare questions to be asked during oral arguments.

Student Handout: CASE STUDY FOR MOOT COURT ACTIVITY

Issue: Free Exercise of Religion
A SIGN OF THE TIMES...RELIGIOUS FREEDOM VS. PUBLIC SAFETY

Amish families from Ohio began to arrive in Fillmore County, Minnesota in 1973-74. As a religious community, they have adopted a simple lifestyle and travel by horse and buggy. At first, there were few problems with the Minnesota law requiring an orange and red triangular slow-moving vehicle sign to be displayed on buggies and wagons. Younger Amish, conscious of their position as newcomers and anxious to fit into their new community, tended to use the required sign. Some Amish preferred to display a black triangle outlined in white as a compromise. Others refused to use any sign. They believed the bright colors of the sign and the symbol itself would put their faith in "worldly symbols" rather than in God. Instead, they outlined their buggies with silver reflective tape. If stopped and tagged, Amish drivers usually pled not guilty. Routinely, they were found guilty and then paid the fines.

Concerns were raised by people living in the area. Occasional accidents involving slow-moving vehicles showed the need for such signs to protect public safety. In 1986, Minnesota law was changed to allow the black triangle with a white outline. Many Amish agreed to this compromise. But in 1987, when the law was changed again to require the orange triangle to always be carried in the wagon and used at night or in poor weather, the conflict grew.

Amish who refused to carry the sign began to be ticketed, fined, and sentenced to community service or jail time. Initial fines were $20 - $22, and first time jail sentences were seven days. Jail sentences would not have to be served if there were no additional tags within six months. Soon, repeat offenders began to appear back in court within the six month period, refused to pay fines, and were required to serve time in jail.

In December, 1988, Mr. Hershberger and thirteen others appeared before a Fillmore County judge for violation of the sign law. They asked the court to dismiss the traffic citations explaining their refusal to display the sign was based on their sincere religious beliefs and that the sign law punished them for their beliefs through fines and jail time. They wanted to practice their religion without interference from government as guaranteed in the First Amendment. They believed the law should allow an alternative that would not violate their religion - the use of silver reflective tape.

The district judge refused to dismiss the citations. The judge pointed out that the Amish community was divided on whether or not their religion prohibits display of the sign. Because the community was divided, it did not appear to the judge that the religious belief was sincere. Also, the judge felt that highway safety was a more important consideration.

The Amish appealed the decision to the Minnesota Court of Appeals. The Court of Appeals, under court rules, asked the Minnesota Supreme Court to review the constitutional issue right away. The case is now before the Minnesota Supreme Court.

Issue: Does Minnesota law requiring the slow-moving vehicle sign violate the rights of the Amish to free exercise of religion guaranteed in the Minnesota Constitution and the U.S. Constitution?

Student Handout: CASE STUDY FOR MOOT COURT ACTIVITY cont.

Points of Law

Under Article I, Section 16 of the Minnesota Constitution, individuals are provided the following protections.

> **Freedom of conscience; no preference to be given to any religious establishment or mode of worship.** The enumeration of rights in this constitution shall not deny or impair others retained by and inherent in the people. The right of every man to worship God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any religious or ecclesiastical ministry, against his consent; nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the state, nor shall any money be drawn from the treasury for the benefit of any religious societies or religious or theological seminaries.

The First Amendment to the U.S. Constitution reads, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ." The amendment's guarantee of freedom of religion contains two parts: (1) the establishment clause, and (2) the free exercise clause.

Under the establishment clause, the state may not treat one religion more favorably than others so as to make it appear that the government is supporting that religion as the state-approved religion. The clause has also been interpreted to forbid government from aiding religion in general over non-religion.

Under the free exercise clause, the state may not restrict the free exercise of religious beliefs either directly or by imposing burdensome conditions on these beliefs.

There is a balance which must be struck between the two clauses. In protecting the free exercise of one religion, it is easy for the government to seem to be favoring (establishing) that religion. For example, if it makes an exception and says that people whose religious beliefs prohibit violence do not have to be soldiers, people with other beliefs might think the government is treating the first religion more favorably.

Student Handout: CASE STUDY FOR MOOT COURT ACTIVITY cont.

As with other First Amendment freedoms, the Constitution's protection of religious beliefs must be balanced against the important needs of society as a whole. That means that the importance of a religious activity to a particular religion must be balanced against the harm to society that the activity can cause. For instance, although public dancing with poisonous snakes may be important to a religious group, the danger that such an activity poses to the public could allow the state to prevent it without running afoul of the free exercise clause.

Issues that should be considered when arguing for or against the right of the Amish to display alternative slow-moving vehicle signs include:

1. Should the sincerity of one's religious beliefs be examined by the court? Must everyone practicing the religion hold the same beliefs? How would the court know if an individual was being sincere?

2. Does the government regulation burden the exercise of the religion? In what way?

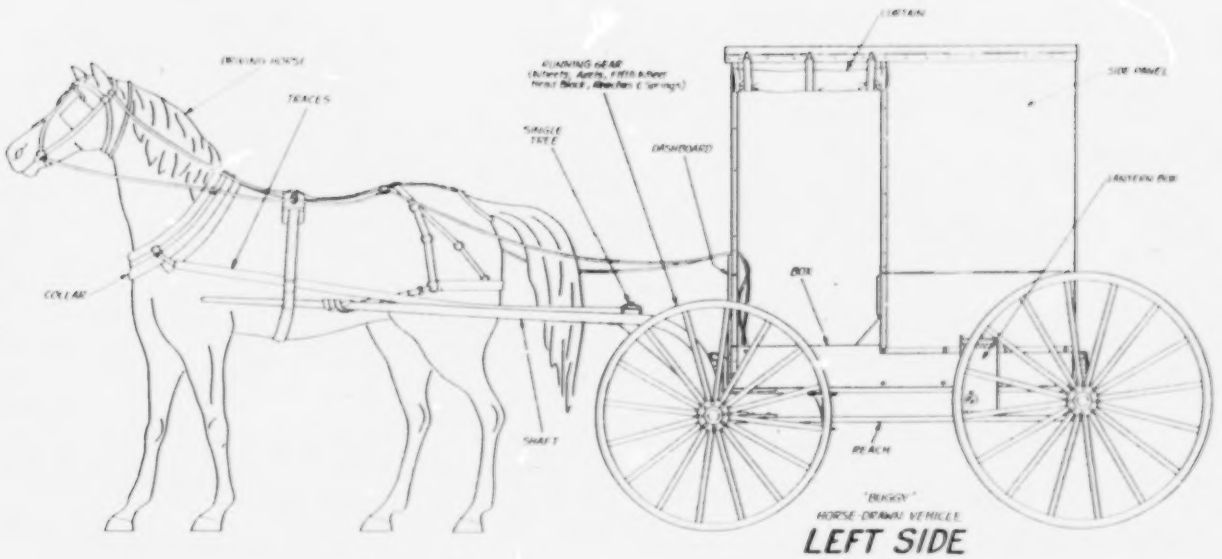
3. Is the government regulation justified? Is the state's concern for safety of the public using the highways a legitimate state interest? Is there a less restrictive way of accomplishing the goal of public safety? Should the constitutional protection require that the government use the least restrictive alternative?

TEACHER NOTES: Case study for moot court activity

1. Should the sincerity of one's religious beliefs be examined by the court? The Minnesota Supreme Court and the United States Supreme Court have held that it has never been a requirement to demonstrate that the sincerity of one's religious belief is uniformly agreed to by the religious community of which the individual is a member. Instead, the focus is to be on whether the individual claiming First Amendment protection has a sincere religious belief. (The willingness to go to jail probably demonstrates sincere religious belief.)

2. Does the government regulation burden the exercise of the religion? When a statute imposes criminal sanctions including fines and jail time on those who do not obey, it is a substantial burden. In this case, the Amish face a choice of either following their religious beliefs by refusing to adopt "worldly symbols" bearing "loud colors" and suffering the consequent criminal sanctions, or rejecting those beliefs in order to obey the law.

3. Is the government regulation justified? This is the critical issue. Under current United States Supreme Court decisions interpreting the United States Constitution, the government need only show a good reason for the regulation for it to be found constitutional. Under current decisions by the Minnesota Supreme Court interpreting the Minnesota Constitution, the government is required to have a compelling governmental interest which cannot be served by a less intrusive alternative. The Minnesota Constitution offers individuals more religious protection. In a decision by the Minnesota Supreme Court regarding the Amish case presented here, the Court ruled that the Minnesota law violates the Amish's right under the Minnesota Constitution to freely practice their religion.



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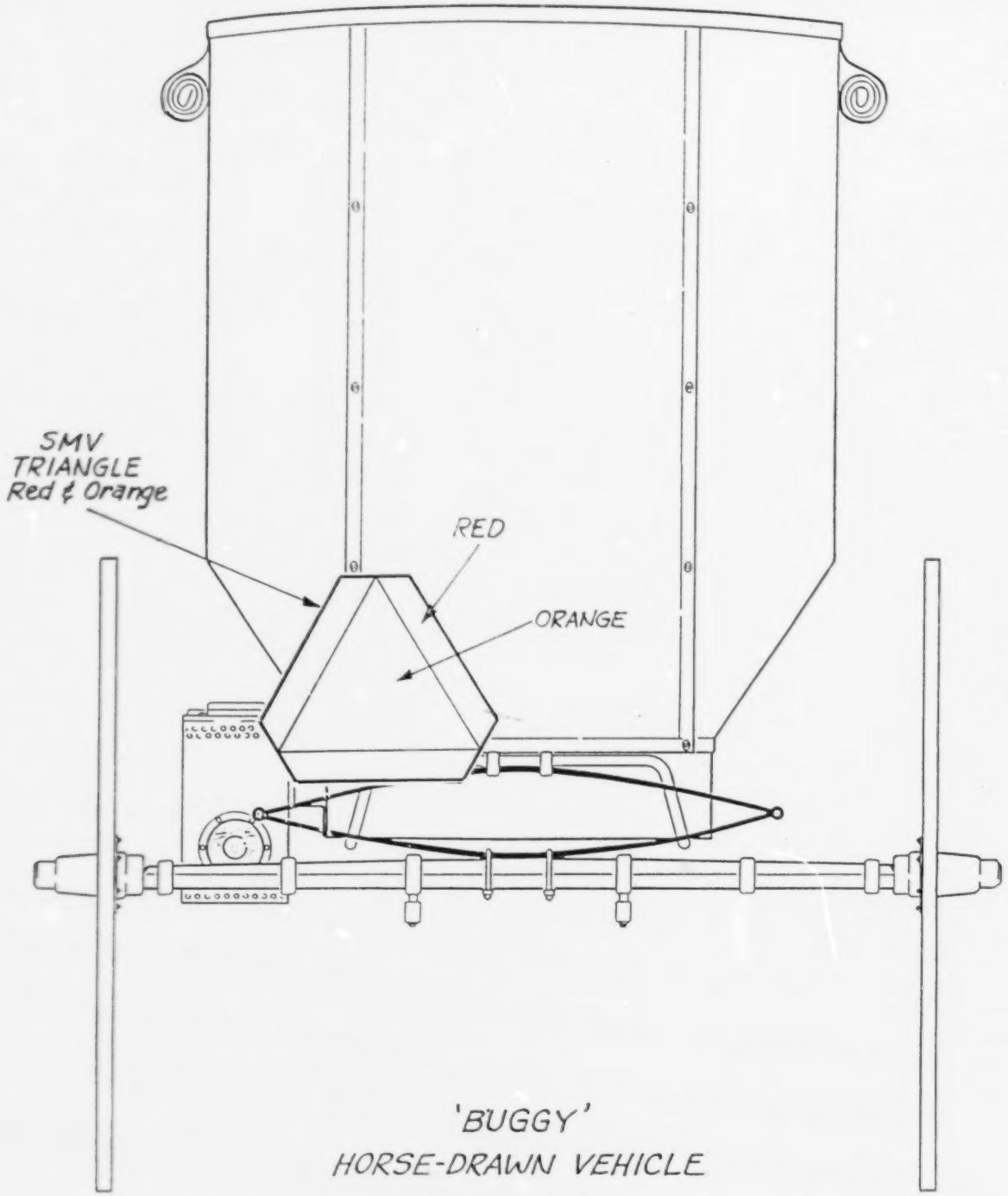
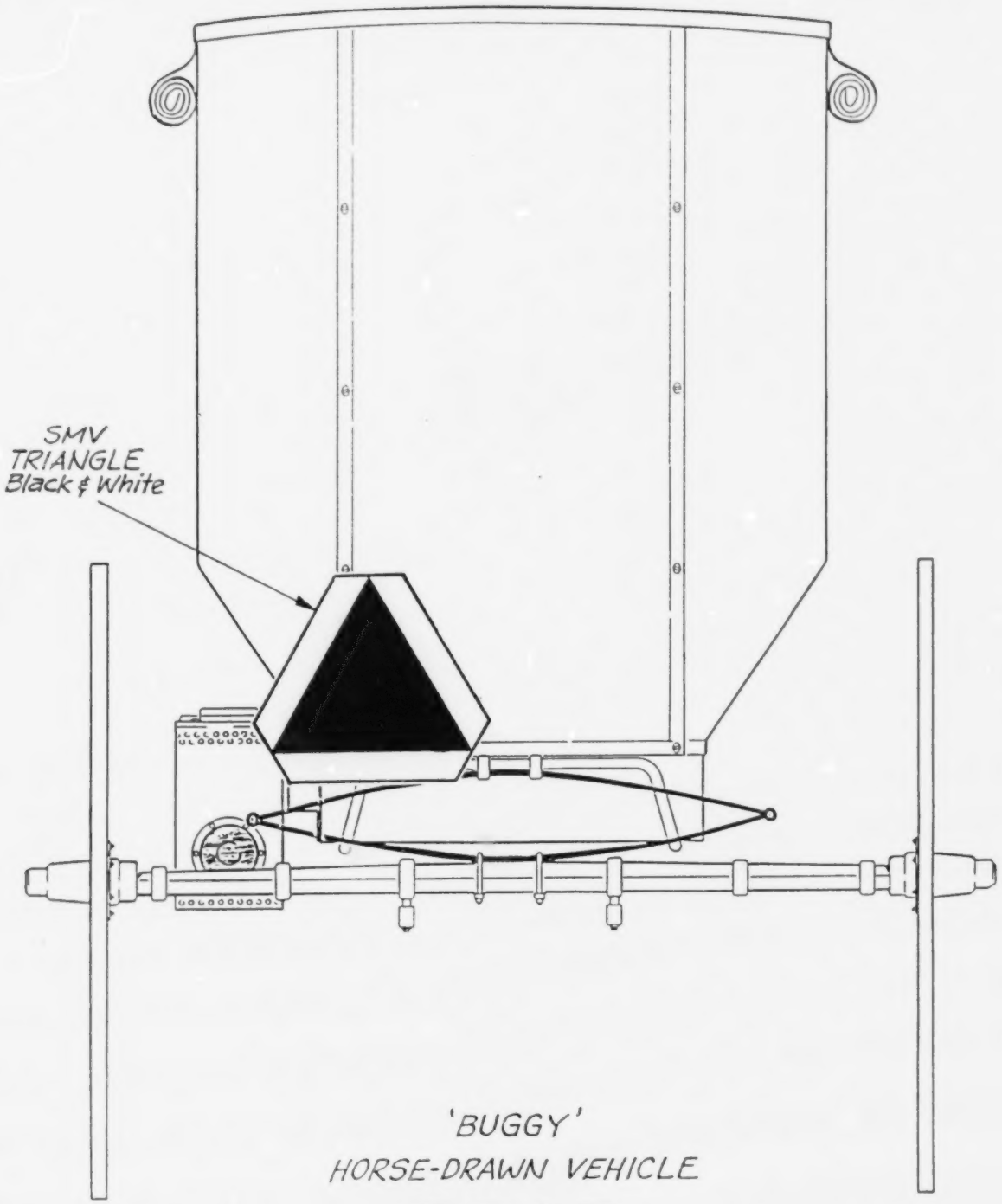


'BUGGY'
HORSE-DRAWN VEHICLE

REAR

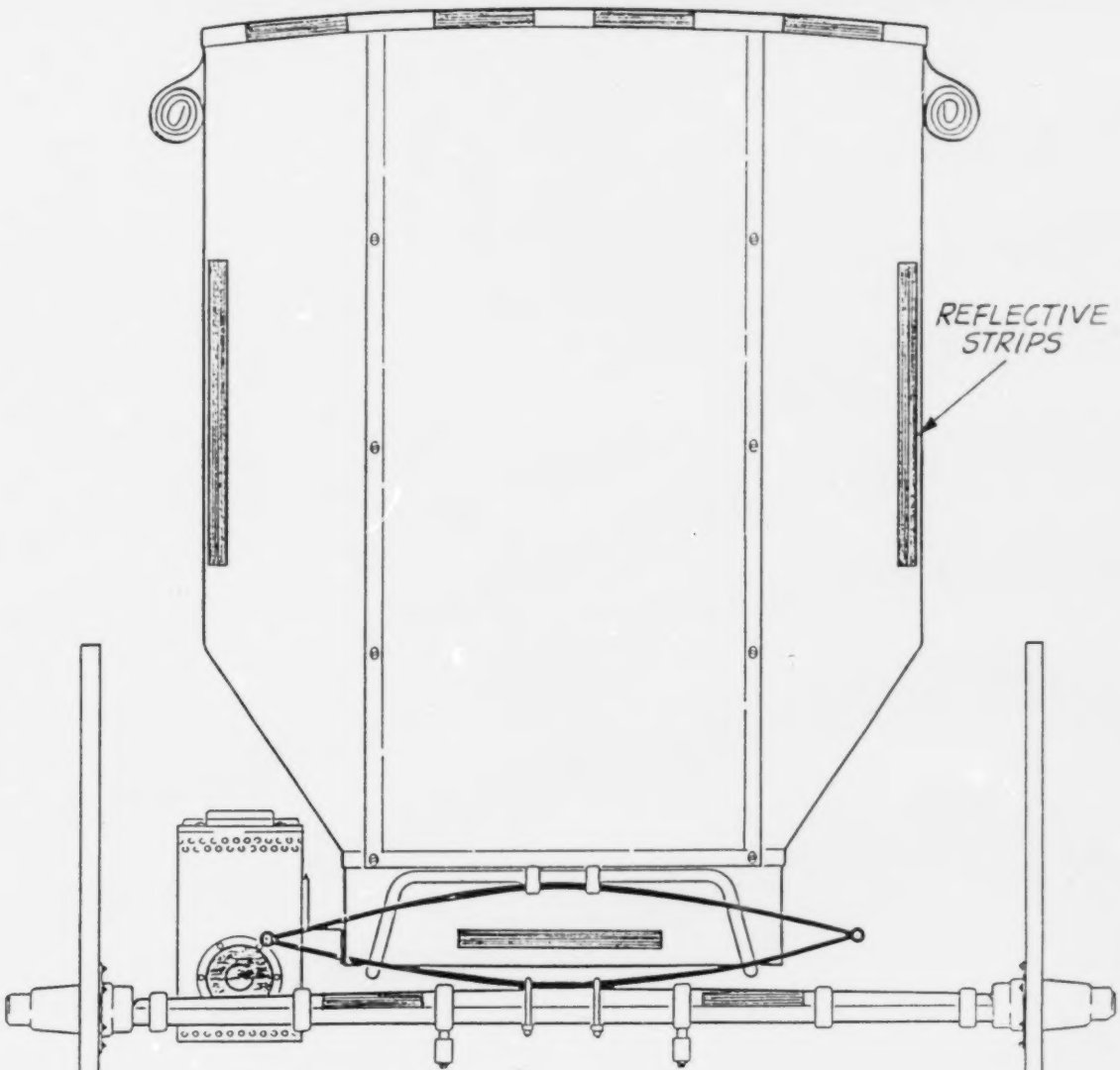
Exhibits from trial: *State of Minnesota v. Eli A. Hershberger*



'BUGGY'
HORSE-DRAWN VEHICLE

REAR

Exhibits from trial: *State of Minnesota v. Eli A. Hershberger*



'BUGGY'
HORSE-DRAWN VEHICLE

REAR

Exhibits from trial: *State of Minnesota v. Eli A. Hershberger*

Mediation

Although the traditional method of resolving disputes through the legal system is "taking it to court" (***adjudication***), the use of alternative methods has been developing rapidly over the last ten years mostly in response to congested court calendars and the expense of litigation.

In some cases, the use of ***alternative dispute resolution*** (known as ADR) is required by legislation. In other cases, contracts between private parties and employment agreements require the use of alternative dispute resolution.

Whatever the circumstances, students living in the 21st century will encounter ***negotiation, mediation,*** and ***arbitration*** in resolving family, work, and community conflicts.

This lesson is designed to familiarize students with alternative dispute resolution, most specifically with the technique of mediation. It is best used after the students have some knowledge of the elements of a trial.

Students will:

1. Understand the process of mediation as an alternative to court.
2. Identify key characteristics of mediation and compare and contrast these with adjudication.
3. Describe the strengths and weaknesses of mediation and traditional adjudication and recognize the conflicts that may be better resolved by each process.

Materials needed: Copies of **Student Handout: ALTERNATIVE DISPUTE RESOLUTION,**
Student Handout: WHAT IS MEDIATION?,
Student Handout: MEDIATION ROLEPLAY: DENNIS THE MENACE, and
Student Handout: SLOW MOVING VEHICLE - A COMMUNITY CONFLICT

Time needed: 1 class period

Grade level: Grades 7-12

Procedure:

1. Provide students with an introduction.

Alternative Dispute Resolution or ADR is used to describe processes that people can use to help resolve conflicts rather than going to court. Two of the most common methods are called mediation and arbitration.

Procedure cont.

Mediation is a voluntary process whereby two parties with differing viewpoints create their own resolution under the guidance of an impartial or neutral mediator. The decision is binding only if the parties agree to make it so. Mediation is the process that is the focus of this lesson.

Arbitration is a more formal process where the neutral third party listens to the evidence and arguments as presented by both parties and then issues a decision, often binding.

Both of these methods are called "alternative" because they are different from the court trial process called ***adjudication.*** Adjudication is the most formal process because the parties are represented by lawyers who argue their cases before a judge or jury as the neutral third party. Formal rules determine what evidence is allowed as well as court procedure. The decision by a court of law is binding over the parties unless or until a higher court alters the decision as a result of an appeal. The parties must have a legal claim for appeal to a higher court.

An underlying difference between adjudication and mediation is the overall objective of the parties. The goal of adjudication is to win, each party wants to achieve the outcome most favorable to their side. Usually there is a clear winner or loser. In mediation, a problem solving process is used. The objective of the process is to minimize the total loss of all parties, to split the largest possible pie between the parties.

2. Review **Student Handout: ALTERNATIVE DISPUTE RESOLUTION**. Ask students if they have ever disagreed with a sibling over which television program to watch. Have them identify which conflict resolution process they used to decide what program they would watch (usually negotiation). They may have asked an older brother or sister to listen to the problem and suggest solutions. If the brother or sister did not have the power to decide but only recommended action, they were using mediation. If the problem was brought to a parent who had the power to decide, the method used was binding arbitration.

3. Ask students to compare and contrast the key characteristics of mediation and adjudication (court trials).

4. Explain to students that they are going to roleplay a mediation session. Have students read **Student Handout: WHAT IS MEDIATION?** Review the steps in mediation.

5. Divide students into groups of three. Assign each student one role: Mr./Mrs. Wilson; Dennis/Denise the Menace; the mediator at the Neighborhood Justice Center.

6. Provide each student the appropriate confidential instructions contained in **Student Handout: MEDIATION ROLEPLAY**. Allow five minutes for students to become familiar with the facts.

7. Allow groups, made up of one of each role, to mediate the dispute using the steps of mediation provided in the student handout. This step should take approximately 15-20 minutes.

Procedure cont.

8. Ask each group to share with the class the terms of the agreement reached through mediation. Note the wide range of solutions and creative ways of solving the problem. Ask the students to consider how a trial would have resolved the case. Ask the students if the process was an efficient one. Why or why not?

9. Have students identify the strengths and weaknesses of mediation. Compare with a court trial.

A. What do you see as the strengths of mediation? Answers include: quicker process, cheaper, more efficient, more creative solutions, less of a traumatic impact on parties, better chance of maintaining a workable relationship after the conflict is resolved.

B. What do you see as the weaknesses? Answers include: difficult where more than two parties are involved in the dispute, less effective with complex issues, a party that has less power may be taken advantage of by a stronger party, parties that need to vindicate their position may not be satisfied, and because a resolution is only binding if the parties agree to make it so, there may not be a true resolution to the dispute.

C. What are the strengths of adjudication? Answers include: justice will be done when each party has their day in court, consistency of application of the law, orderly process for complex issues, balancing of power between two parties, vindication of a party's position, binding decision.

D. What are the weaknesses? Answers include: formal rules limiting evidence and remedies, narrow focus on conflict through the framing of issues, time and costs of litigation, emotional trauma to parties in testifying in court and being in an adversarial stance, someone wins and someone loses.

10. Have students evaluate the use of mediation to resolve the following disputes:

A. John Jones is shot in the arm by a person trying to burglarize his home.

B. Mr. and Mrs. Smith are getting a divorce. Mr. Smith wants custody of the children. Mrs. Smith strongly disagrees.

C. A car mechanic friend of Jane's went ahead and did $500 worth of work when Jane only authorized $200 of work to be done.

11. Explain to students that mediation is not appropriate in some cases, for example, criminal cases where the state has an interest in prosecuting a person for committing a crime.

12. For advanced students, have students mediate the problem concerning slow moving vehicles using the steps provided in this activity. See lesson **Appeals** for additional information on the case, including exhibits.

Student Handout: ALTERNATIVE DISPUTE RESOLUTION

Negotiation
(2 people)

Mediation
(2 people + 3rd party to help reach agreement)

Arbitration
(2 people + 3rd party who resolves dispute, often binding)

Adjudication
(3rd party - judge or jury - hears facts and determines guilt or innocence or civil liability)

COMPARISON OF DISPUTE RESOLUTION

	MEDIATION	ADJUDICATION
Parties Involvement	By agreement or contract	Voluntary as to plaintiff: Involuntary as to defendant
Type of Process	Usually formal and unstructured Emphasis on relationship & attitude Problem solving approach Private proceedings	Rigid formal procedures and rules of evidence apply Decision making is controlled by precedent (past case law) and consistency in applying the law Adversarial approach Public process, matter of record unless sealed by court
Role of Third Party	Mediator is facilitator Mediator suggests alternatives to parties	Third party (judge or jury) is fact-finder & decision-maker Parties (lawyers) present evidence and argument
End Result	Mutually acceptable agreement sought Agreement written in a contract	Win/Lose result unless settled through negotiation Reasons given for decision in court order or published case
Effect of decision	Recommendations of mediator are not binding	Court's decision binding but appealable

Student Handout: WHAT IS MEDIATION?

Mediation is a way to resolve problems between people. The people who are in conflict are called ***disputants,*** and they have agreed to ask a third person or ***mediator*** to help them solve their problems. Most mediation is voluntary. In other words, the parties agree to mediate, to the rules that will be followed during the mediation, and to the solution that is reached as a result of the mediation.

The mediator's role is to allow each party an opportunity to tell his or her side of the story, identify the facts and issues that are in conflict, and suggest alternatives that would help solve the problem. As a facilitator, the mediator tries to bring out underlying concerns and help the parties arrive at a solution that both sides can accept. Sometimes a mediator may discuss the problem alone with a disputant to find out where they can agree. Then the mediator brings the parties together to find common ground. Other times a mediator may ask the parties to reverse roles so that they can better understand the other person's postition.

It may take one meeting or several before a solution that is acceptable to both parties is reached. A mediator cannot force a decision on the parties. If the parties wish, they may write up their agreement in a contract that will be enforceable by law.

Mediation Steps

Step 1. Introduction

The mediator sets the parties at ease and explains the ground rules. The mediator's role is not to make a decision but to help the parties reach a mutual agreement. The mediator explains that he or she will not take sides.

Step 2. Telling the story

Each party tells what happened. The person bringing the complaint tells his or her version of the story first. Then the other party explains his or her side of the story. Disputants must not interrupt each other. Each person will receive a chance to talk.

Step 3. Identifying facts and issues

The mediator restates the views of each party, attempting to identify facts and issues upon which the parties can agree. The mediator may also ask questions to clarify issues or unclear statements.

Step 4. Identifying alternative solutions

Both parties think of possible solutions to the problem. The mediator makes a list and asks each party to explain his or her feelings about each possible solution. The advantages and disadvantages to each solution are discussed by the parties.

Student Handout: WHAT IS MEDIATION? cont.

Step 5. Modifying solutions

The mediator asks one of the parties which solution he or she prefers. After the party outlines the preferred solution, the mediator asks the second party if the solution is acceptable. If it is not, the mediator asks the second party for his or her preferred solution. The mediator asks the first party if it is acceptable. If not, the mediator asks both parties to identify parts of the solutions that are acceptable. If there are agreements on any points, the mediator restates the agreement to make sure that both disputants approve and understand the agreement.

Step 6. Developing a solution

The mediator may need to talk with each disputant individually to identify the "bottom line." This refers to the absolute minimum that each party will accept. The mediator then brings the parties back together and again asks each party to offer a proposed solution. If there is no agreement, the mediator will repeat the process of speaking individually to the parties and then bringing them together to try to resolve the conflict.

Step 7. Agreeing on a solution

Once a solution is reached, the mediator makes certain that each party understands and accepts it. The agreement should be written down. The parties should also agree upon an action if either of them breaks the agreement.

Student Handout: MEDIATION ROLEPLAY: DENNIS THE MENACE

Directions

Read only the role you have been assigned. Act out how you think that person would handle a mediation session. Be prepared to share your group's solution with the class.

Student Handout: MEDIATION ROLEPLAY: DENNIS THE MENACE cont.

Mediator's Information

You are a volunteer mediator at the Neighborhood Justice Center. The city attorney diverts to your program minor complaints of vandalism, theft, etc. She has referred this matter to you for an out-of-court resolution. Mr. Wilson has complained that Dennis threw a brick through the windshield of his car. The city attorney, rather than treating this as a criminal matter prefers that the parties solve their problem through mediation.

Explain that the parties should make a good faith effort to solve their problem here and now as any criminal case will involve much more time and effort and money on the part of both parties.

Try to get at the parties' underlying concerns and urge them to come up with their own solutions.

Student Handout: MEDIATION ROLEPLAY: DENNIS THE MENACE cont.

Mr/Mrs. Wilson's Confidential Instructions

You have filed a complaint against Dennis/Denise the Menace with the city attorney. The lawyer in the city attorney's office referred you to the local Neighborhood Justice Center, which scheduled a mediation hearing. You are not sure what mediation is about, but you are angry with Dennis and you think that he/she should be punished for this act of vandalism.

Dennis broke the windshield on your car by throwing a brick through it. You did not see Dennis throw the brick, but just before the windshield was broken you and Dennis had exchanged angry words. You had gone into the house and a short time later came out to find the windshield broken.

You want Dennis to pay for the damage. You have one estimate for $700 from a local Oldsmobile dealer. You have insurance that could cover the damage, but you would have to pay $200 deductible. You want Dennis to pay the full amount because you fear your insurance rates would go up if you submit a claim.

You have lived next door to Dennis ever since he was born, 18 years ago. You have watched him grow up, and until lately you have always shared a special relationship with Dennis. Ever since he graduated from high school, he has not had time to visit with you and you miss the special times you had together. Shortly before the brick incident, you had asked Dennis why he hadn't mowed your lawn that week as you hired him to do. You don't understand kids these days and think Dennis has turned into a selfish member of the "me" generation.

Student Handout: MEDIATION ROLEPLAY: DENNIS THE MENACE cont.

Dennis\Denise's Confidential Information

Mr\Mrs. Wilson has filed a complaint against you with the city attorney and the local Neighborhood Justice Center. Mr. Wilson claims you broke the windshield in his car by throwing a brick through it. The Neighborhood Justice Center has scheduled a mediation hearing. You don't know exactly what this means, but you are worried because you have just turned 18 and don't want this to become a criminal matter in adult court. You did break the window in a fit of anger. However, you are pretty sure that no one saw you. The incident happened last Saturday in the early evening just as it was getting dark.

You are 18 years old and have known Mr. Wilson all your life. When you were a kid, you used to spend a lot of time visiting the Wilson's, and Mr. Wilson often took you to sporting events as a special treat. Since junior high, you have been hired by the Wilsons to mow their lawn every week during the summer. But since graduating from high school, you have been too busy working two jobs (to save money for college) and sometimes forget to mow Mr. Wilson's lawn. You have never explained to Mr. Wilson why his lawn hasn't been done.

Last Saturday, you had just turned in the driveway when Mr. Wilson ran out of his house to talk to you. In a screaming voice, he yelled how irresponsible and untrustworthy you were. You were embarassed and responded by yelling back. Mr. Wilson slammed the door as he went inside. You went in your house, but just thinking about the incident made you angry. Later in a fit of rage you picked up the brick and threw it not intending to hit the windshield. You are embarassed about acting childishly, and you would rather Mr. Wilson didn't know that you broke the windshield because you do value Mr. Wilson's friendship.

You are unwilling to pay for the windshield because you believe Mr. Wilson has insurance that will replace the windshield free.

Student Handout: SLOW MOVING VEHICLES- A COMMUNITY CONFLICT

HISTORY OF THE CONFLICT

Amish families from Ohio began to move to a small community in Minnesota in 1973. Initially, there were few problems with the law requiring an orange slow moving vehicle sign on buggies and wagons. Younger Amish, conscious of their position as newcomers and anxious to fit into their new community, tended to use the familiar orange triangle. Some Amish preferred a black triangle with a white outline. Older, more conservative Amish, did not use any sign. Instead, they outlined their buggies with reflective tape. If stopped and tagged, Amish drivers usually pled not guilty. Routinely, they were found guilty and then paid the assessed fines.

There were sporadic conflicts over the sign law. Some non-Amish people in the area pointed to public safety concerns and occasional accidents involving slow moving vehicles as reasons for requiring Amish drivers to display the orange sign. At the same time, the non-Amish community recognized the Amish community was responsible for a significant increase in tourism to the area. Many feared that enforcing the sign law too rigidly would make the Amish move away. This would result in a financial loss for the entire area.

The Amish community did not have a united viewpoint. Some believed that they should be exempt from using the orange sign, citing religious freedom guaranteed by the Constitution. This group said they felt safe without the orange sign but were generally willing to outline vehicles with reflective tape. Other Amish continued to use the modified, black and white, form of the sign. Still others complied with the law and displayed the orange triangle.

In 1986, a new law was passed allowing for a black triangle with a white outline. The Minnesota Highway Patrol felt strongly that, regardless of color, there must be a sign. Many Amish began to comply. Others continued to refuse to comply and continued to outline their vehicles with reflective tape.

The state of Minnesota amended the law one year later. The amended law required slow moving vehicles to carry the orange triangle in wagons and buggies. The orange sign was to be used at night or in conditions of poor visibility. Many Amish refused to carry the orange triangle.

Amish buggy and wagon drivers began to be ticketed, fined, and/or sentenced to community service or jail time for non-compliance. Initial fines were in the $20-22 range, and first jail sentences were often for seven days. Sentences were often stayed if there were no additional tags within six months. Soon, repeat offenders began to appear back in court within the six month period. They began to refuse to pay assessed fines. As repeat offenders began to reappear in court, judges seemed less willing to accept religious freedom as a defense.

As Amish men began to refuse to pay fines and were then sentenced to community service or jail time, newspapers and other media in the state began covering the issue. Articles and reports described how other states had handled the same problem. For example, Ohio and Kentucky allowed the use of reflective tape. Pennsylvania required an orange reflective sign with flashing red lights on the back of the vehicle and flashing orange lights on the front. A Michigan court ruled the Amish did not have to display the sign, citing the willingness of the Amish to outline with reflective tape. It appeared that

Student Handout: SLOW MOVING VEHICLE - A COMMUNITY CONFLICT cont.

Minnesota was the only state actively prosecuting Amish drivers for non-compliance.

In October, 1988, 14 Amish were accused of failing to use any sign on their wagons or buggies or for using the black and white reflective sign after sundown (instead of the orange sign required by law). They cited religious based opposition to using the orange triangular slow moving vehicle sign. The Amish wanted to practice their religion without interference from government. The bright color of the sign was opposed. The sign itself was resisted, the Amish said they preferred to trust God over worldly symbols. The Amish believed that enforcement of the law, when there was the less restrictive alternative of outlining the buggy with reflective tape, was a violation of religious freedom.

The opposition said free exercise of religioun was not an absolute right. It was also suggested that significant disagreement within the Amish community regarding compliance with the law weakened the Amish's religious grounds argument. The opposition declared that highway safety was the higher concern. It was also pointed out that the Amish did use bright colors such as red for barns and orange for hunting clothes. This was an attempt to discount Amish opposition to the color of the orange sign. Amish opposition to the orange triangular sign was not considered sincere enough to warrant freedom from state law.

Law enforcement officials and lawmakers from the area want to see the conflict resolved. They are willing to propose changes in the law that will allow the community to operate in an agreed upon manner. However, the community must first agree upon a solution that will then become the law. All parties have agreed that mediation is probably the best way to resolve this conflict.

Steps

1. Divide into groups of three: one person is the mayor of the small town, one person is an Amish leader, and one person is the mediator.

2. Using the mediation steps, develop a solution.

3. Compare solution with other solutions in the class.

This lesson was adapted from materials written by Lynn D. Gresser, teacher and law-related education consultant.

Punishment

One of the functions of the court system is to determine the appropriate punishment when an individual has violated the law. The possible penalties include a fine, jail or prison sentence, restitution, community service, and probation for criminal trials; and fines and dollar judgments for civil trials.

Fine, criminal: amount of money stated in the Minnesota Statutes as the penalty for certain behavior.

Jail or prison: sentence by the judge to spend one year or less in jail or over a year in prison.

Restitution: criminal is required by court to repay the victim of the crime.

Probation: criminal is allowed to function in society but must obey certain restrictions including reporting to a probation officer.

Community service: criminal is required by judge to perform service in the community.

Fine, civil: amount of money stated in Minnesota Statutes as the penalty for civil violations. Also includes amount of money awarded by a jury as ***"punitive damages."***

Dollar judgment: money awarded in a civil trial to repay the winning party for damages done.

These penalties are used in Minnesota courts. Other states use other penalties, including the death penalty. In other countries, penalties sometimes include actions that are considered torture.

This activity will have students consider the appropriateness and effectiveness of various penalties.

Students will:

1. Know types of penalties.
2. Understand the purpose of penalties.
3. Understand that the severity of penalties is determined by the severity of the behavior.

Materials needed: Copies of **Student Handout: YOU DESERVE IT**

Time needed: 1 class period

Grade level: Grades 5-12

Procedure:

1. Ask students to brainstorm potential penalties for behavior that they determine is against society's best interest. The list should include the penalties listed above and others, including the death penalty and methods of torture. You might ask students to compare this with penalties that they experience at home, in school, and in their community. Explain to students that a small offense results in a small penalty and that a large offense results in a large penalty.

Procedure cont.

2. Discuss the purpose for punishment. Is it retribution? Restitution? Rehabilitation? Different penalties might have different purposes (damages can be for restitution, prison might be for rehabilitation or retribution).

Definitions
retribution: revenge, retaliation, serve as an example. ***restitution:*** the act of restoring something to its rightful owner. ***rehabilitation:*** to put into good condition.

Are penalties effective at discouraging unacceptable behavior? Do criminals think about the penalty before committing the crime?

3. In small groups, have students decide upon appropriate penalties for the hypothetical actions contained in **Student Handout: YOU DESERVE IT.** Students should not be limited to the penalties discussed. Discuss and compare as a large group.

Questions to consider:

A. Are the penalties appropriate for the behavior?
B. Will the victims be repayed?
C. Will the public safety be protected?
D. Will similar behavior be discouraged?
E. Are the penalties fair?
F. What types of behavior are most offensive?

Student Handout: YOU DESERVE IT

Case 1
A six year old slips into a grocery store and steals a loaf of bread and brings it home to his brothers and sisters.
Penalty:_____

Case 2
An eighteen year old steals a $300 camera.
Penalty:_____

Case 3
A young woman, attempting to put on her morning makeup while driving her car, hits the back of a delivery truck, causing it to roll on its side and empty its contents into the melting snow.
Penalty:_____

Case 4
The brakes of a large truck fail, resulting in its hitting the back of a school bus, slightly injuring children.
Penalty:_____

Case 5
An older man kidnaps a nine year old and releases the child 17 days later. The child is very frightened and will not speak.
Penalty:_____

Case 6
A young woman kidnaps a newborn baby and keeps it for two weeks.
Penalty:_____

Case 7
Two eight year olds, playing with matches, start a house on fire. Three small children die in the fire.
Penalty:_____

Case 8
An electrician wires a house incorrectly, causing a fire that destroys the new home and severely burns the owner, a 32 year old male.
Penalty:_____

Case 9
A religious cult tortures and sacrifices animals in religious ceremonies.
Penalty:_____

Case 10
Because of a machine failure, a drug manufacturer mixes the wrong ingredients in a new drug, resulting in the death of two elderly women.
Penalty:_____

Sentencing

In criminal trials, the judge is responsible for determining the appropriate sentence. The Minnesota Legislature provides guidelines by stating the maximun sentence for various crimes, however, the judge must select the actual sentence. In many cases, the sentence is a combination of penalties often including both a fine and time in jail or prison. For less serious offenses, the judge might select a fine and probation. Because the capacity of state and local correctional facilities is limited, serving time in jail or prison is limited to persons convicted of more serious offenses or those who have long criminal histories.

In Minnesota, judges are required to use the **Sentencing Guidelines** in determining sentences in felony cases. These guidelines were established to provide rational and consistent sentencing standards that reduce sentencing disparity and ensure that the sentences are proportional to the severity of the offense and the extent of the offender's criminal history. The **Sentencing Guidelines** are advisory to the sentencing judge. However, departures are made only when substantial and compelling circumstances exist.

Students should be familiar with the process used to determine sentencing in more serious offenses and know the suggested sentences for more common crimes. This not only helps to discourage criminal behavior, but also builds faith in the fairness of the judicial system.

Students will:

1. Understand the operation of the Sentencing Guidelines.
2. Understand that the goal is to have the punishment fit the crime and the criminal.
3. Know sentences for various common crimes.
4. Understand the function of sentencing in the justice system.

Materials needed: Copies of **Student Handout: TIME FOR THE CRIME, Sentencing Guidelines Grid,** and **Offense Severity Reference Table**

Time needed: 1 class period

Grade level: Grades 7-12

Procedure:

1. Explain the introductory information on the **Sentencing Guidelines**. Provide students with the following additional information:

A. Presumptive sentences (the sentence that is presumed unless aggravating or mitigating circumstances exist) are determined by two factors: the crime and the criminal's history. This means

Procedure cont.

that if a crime is the offender's first offense, he or she will be treated more leniently than if it is a repeat offense.

B. An offender's criminal history is comprised of (1) prior felony record, (2) status at time of offense (on probation, in jail, etc.), (3) prior misdemeanor and gross misdemeanor record, (4) prior juvenile record for young adult felons.

C. Different past felonies carry different weights, depending on severity levels. Severity levels are listed on **Offense Severity Reference Table**. They range from severity level I, the least severe to severity level X, the most severe, with some exceptions. (First degree murder carries a mandatory life sentence, see D.).

For example, if an adult being sentenced for a felony has a history of four severity level I or II felonies, each of the past felonies will equal 1/2 point for a total of 2 points. These points are used on the Sentencing Guidelines Grid.

The weights assigned to prior offenses are as follows:

Prior felonies:

1 prior adult felony of severity level I-II = 1/2 point.
1 prior adult felony of severity level III-V = 1 point.
1 prior adult felony of severity level VI-VII = 1 1/2 points.
1 prior adult felony of severity level VIII-X = 2 points.
1 first degree murder conviction = 2 points.

Note: Prior felonies will not be used in computing criminal history score if a period of 15 years has elapsed since the date of discharge from or expiration of the sentence to the date of the current offense.

Δ No partial points are given.

Prior misdemeanors and gross misdemeanors:

Δ 1/4 point for each adult misdemeanor or gross misdemeanor excluding traffic offenses (with below exceptions).

Δ 1/2 point for each DWI or aggravated DWI offenses when the current offense is criminal vehicular operation.

Note: Prior misdemeanors and gross misdemeanors are not used in computing the criminal history score if a period of ten years has elapsed since the offender was adjudicated guilty for that offense.

An offender will not receive more than one point for prior misdemeanor or gross misdemeanor convictions.

Δ No partial points are given.

Procedure cont.

Prior juvenile offenses that would have been felonies if they offender had been an adult:

Δ 1/2 point for each felony offense occurring after offender's sixteenth birthday.

Note: If the offender was over age 21 at the time of the current felony, prior juvenile offenses will not be counted.

An offender will not receive more than two points for offenses committed and prosecuted as a juvenile.

Δ No partial points are allowed.

D. Some crimes are so shockingly evil that sentences for them are not determined using the sentencing guidelines. These include:

Life Sentence: First degree murder recently changed from 17 years to 30 years. Criminal is eligible for parole after 30 years. This is the only sentence with parole. There is no time off for good behavior.

37 Year Sentence: Used in cases of repeat sexual offenders, 1st or 2nd Degree Criminal Sexual Conduct with force with prior felony offenses. 1/3 time off for good behavior.

Life without parole: 1st Degree Murder with a prior heinous crime. No time off for good behavior.

40 Year Sentence: 2nd Degree Murder with a prior heinous crime. 1/3 time off for good behavior.

2. Review the **Sentencing Guidelines Grid** with the students. Note that the severity level of the current crime is listed on the vertical axis and the criminal history score is located on the horizontal axis. To use the grid, first locate the crime and then move horizontally until the appropriate criminal history score is found. The number found at this intersection is the presumptive sentence. For example, if a person convicted of aggravated robbery has no criminal history, the sentence will be 48 months. If that person has a history of 4 prior level I felonies (2 points), the sentence will be 68 months. The italicized numbers refer to the possible range of the sentence.

The bold line on the grid demarcates the cases that will have executed sentences and the cases that will have stayed sentences. For cases below and to the right of the line, the sentences are to be executed (the person will go to prison). For cases above and to the left of the line, the sentences will probably be stayed (the sentence is determined but the person will not go to jail if he or she obeys certain restrictions). The purpose of this is to reserve jail and prison space for serious offenders.

For persons convicted of attempted offenses or conspiracies to commit offenses, the sentence is determined by finding the sentence for the crime (as if it had been completed) and dividing the time by two. However, this time will not be less that one year and one day.

Student Handout: TIME FOR THE CRIME

Terry, age 34, has been convicted of security violations (over $2,500). This is Terry's first offense.

Lou, age 20, has been convicted of discharging a firearm. This is not Lou's first brush with the law. When 16 years old, she forged a check for $150 and at age 17 was found guilty of assault motivated by bias when she belonged to a local gang.

Tram, age 57, was convicted of sports bookmaking. Twelve years ago he was convicted of a theft crime in the amount of $3,000.

Alex, age 42, is a "bad actor." She has been in trouble on several occasions. In the past six years, she has been convicted of 2 gross misdemeanors and 3 misdemeanors. She has now been convicted of first degree assault resulting from a violent argument with her boyfriend.

W.B., age 27, was convicted of first degree murder.

Answers: TIME FOR THE CRIME

Terry: 12 months and one day

Lou: 12 months and one day

Tram: 15 months

Alex: 98 months

W.B.: Life

SENTENCING GUIDELINES GRID

Presumptive Sentence Lengths in Months

Italicized numbers within the grid denote the range within which a judge may sentence without the sentence being deemed a departure.

Offenders with nonimprisonment felony sentences are subject to jail time according to law.

SEVERITY LEVELS OF CONVICTION OFFENSE		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
Sale of a Simulated Controlled Substance	I	12*	12*	12*	13	15	17	19 *18-20*
Theft Related Crimes ($2500 or less) Check Forgery ($200-$2500)	II	12*	12*	13	15	17	19	21 *20-22*
Theft Crimes ($2500 or less)	III	12*	13	15	17	19 *18-20*	22 *21-23*	25 *24-26*
Nonresidential Burglary Theft Crimes (over $2500)	IV	12*	15	18	21	25 *24-26*	32 *30-34*	41 *37-45*
Residential Burglary Simple Robbery	V	18	23	27	30 *29-31*	38 *36-40*	46 *43-49*	54 *50-58*
Criminal Sexual Conduct 2nd Degree (a) & (b)	VI	21	26	30	34 *33-35*	44 *42-46*	54 *50-58*	65 *60-70*
Aggravated Robbery	VII	48 *44-52*	58 *54-62*	68 *64-72*	78 *74-82*	88 *84-92*	98 *94-102*	108 *104-112*
Criminal Sexual Conduct, 1st Degree Assault, 1st Degree	VIII	86 *81-91*	98 *93-103*	110 *105-115*	122 *117-127*	134 *129-139*	146 *141-151*	158 *153-163*
Murder, 3rd Degree Murder, 2nd Degree (felony murder)	IX	150 *144-156*	165 *159-171*	180 *174-186*	195 *189-201*	210 *204-216*	225 *219-231*	240 *234-246*
Murder, 2nd Degree (with intent)	X	306 *299-313*	326 *319-333*	346 *339-353*	366 *359-373*	386 *379-393*	406 *399-413*	426 *419-433*

1st Degree Murder is excluded from the guidelines by law and continues to have a mandatory life sentence. See section **II.E. Mandatory Sentences** for policy regarding those sentences controlled by law.

At the discretion of the judge, up to a year in jail and/or other non-jail sanctions can be imposed as conditions of probation.

Presumptive commitment to state imprisonment.

* one year and one day

Taken from *Minnesota Sentencing Guidelines Commission* publication, August 1990

V. OFFENSE SEVERITY REFERENCE TABLE

First Degree Murder is excluded from the guidelines by law, and continues to have a mandatory life sentence.

X	Adulteration - 609.687, subd. 3(1) Murde. 2 - 609.19(1) Murder 2 of an Unborn Child - 609.2662(1)
IX	Murder 2 - 609.19(2) Murder 2 of an Unborn Child - 609.2662(2) Murder 3 - 609.195(a) Murder 3 of an Unborn Child - 609.2663
VIII	Assault 1 - 609.221 Assault 1 of an Unborn Child - 609.267 Controlled Substance Crime in the First Degree - 152.021 Criminal Sexual Conduct 1 - 609.342 Death of an Unborn Child in Commission of Crime - 609.268, subd. 1 Importing Controlled Substances Across State Borders - 152.0261 Kidnapping (w/great bodily harm) - 609.25, subd. 2(2) Manslaughter 1 - 609.20(1) & (2) Manslaughter 1 of an Unborn Child - 609.2664(1) & (2) Murder 3 - 609.195(b) Prostitution (Patron) - 609.324, subd. 1(a) Receiving Profit Derived from Prostitution - 609.323, subd. 1 Solicitation of Prostitution - 609.322, subd. 1
VII	Aggravated Robbery - 609.245 Arson 1 - 609.561 Burglary 1 - 609.582, subd. 1(b) & (c) Controlled Substance Crime in the Second Degree - 152.022 Controlled Substance Crime in the Third Degree - 152.023, subd. 2 (1) & (2) Criminal Sexual Conduct 2 - 609.343, subd. 1(c), (d), (e), (f), & (h) Criminal Sexual Conduct 3 - 609.344, subd. 1(c), (d), (g), (h), (i), (j), & (k) Criminal Vehicular Homicide and Injury - 609.21, subd. 1(1)&(2) and subd. 3(1)&(2) Fleeing Peace Officer (resulting in death) - 609.487, subd. 4(a) Great Bodily Harm Caused by Distribution of Drugs - 609.228 Kidnapping (not in safe place) - 609.25, subd. 2(2) Malicious Punishment of Child (great bodily harm) - 609.377 Manslaughter 1 - 609.20 (3) & (4) Manslaughter 1 of an Unborn Child - 609.2664(3) Manslaughter 2 - 609.205(1) Manslaughter 2 of an Unborn Child - 609.2665(1)
VI	Arson 2 - 609.562 Assault 2 - 609.222

Taken from *Minnesota Sentencing Guidelines Commission* publication, August 1990

VI

Bringing Stolen Goods into State (over $2,500) - 609.525
Burglary 1 - 609.582, subd. 1(a)
Controlled Substance Crime in the Third Degree - 152.023, subd. 1 & subd. 2 (3), (4), (5), & (6)
Criminal Sexual Conduct 2 - 609.343, subd. 1(a), (b), & (g)
Criminal Sexual Conduct 4 - 609.345, subd. 1(c), (d), (g), (h), (i), (j), & (k)
Criminal Vehicular Homicide and Injury - 609.21, subd. 1(3)&(4) and subd. 3(3)&(4)
Escape from Custody - 609.485, subd. 4(5)
Failure to Affix Stamp on Cocaine - 297D.09, subd. 1
Failure to Affix Stamp on Hallucinogens or PCP - 297D.09, subd. 1
Failure to Affix Stamp on Heroin - 297D.09, subd. 1
Failure to Affix Stamp on Remaining Schedule I & II Narcotics-297D.09, subd. 1
Fleeing Peace Officer (great bodily harm) - 609.487, subd. 4(b)
Kidnapping - 609.25, subd. 2(1)
Malicious Punishment of Child (great bodily harm) - 609.377
Precious Metal Dealers, Receiving Stolen Goods (over $2,500) - 609.526, (1)
Precious Metal Dealers, Receiving Stolen Goods (over $300) - 609.526, second or subsequent violations
Price Fixing/Collusive Bidding - 325D.53, subd. 1(2) (a)
Theft over $35,000 - 609.52, subd. 3(1)

V

Bringing Stolen Goods into State ($1,000 - $2,500) - 609.525
Burglary - 609.582, subd. 2(a) & (b)
Check Forgery over $35,000 - 609.631, subd. 4(1)
Criminal Sexual Conduct 3 - 609.344, subd. 1(b), (e), & (f)
Criminal Vehicular Homicide and Injury - 609.21, subd. 2 & 4
Financial Transaction Card Fraud over $35,000 - 609.821, subd. 3(1) (i)
Manslaughter 2 - 609.205(2), (3), & (4)
Manslaughter 2 of an Unborn Child - 609.2665 (2), (3), & (4)
Perjury - 609.48, subd. 4(1)
Possession of Incendiary Device - 299F.79; 299F.80, subd. 1; 299F.811; 299F.815; 299F.82, subd. 1
Price Fixing/Collusive Bidding - 325D.53, subd. 1(1), and subd. 1(2) (b) & (c)
Prostitution (Patron) - 609.324, subd. 1(b)
Receiving Profit Derived from Prostitution - 609.323, subd. 1a
Simple Robbery - 609.24
Solicitation of Prostitution - 609.322, subd. 1a
Tampering w/ Witness - 609.498, subd. 1

IV

Accidents - 169.09, subd. 14 (a) (1)
Adulteration - 609.687, subd. 3(2)
Assault 2 of an Unborn Child - 609.2671
Assault 3 - 609.223, subd. 1
Bribery - 609.42; 90.41; 609.86
Bring Contraband into State Prison - 243.55
Bring Dangerous Weapon into County Jail - 641.165, subd. 2(b)
Bringing Stolen Goods into State ($301 - $999) - 609.525
Burglary 2 - 609.582, subd. 2 (c) & (d)
Burglary 3 - 609.582, subd. 3
Controlled Substance Crime in the Fourth Degree - 152.024

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IV

Criminal Sexual Conduct 4 - 609.345, subd. 1 (b), (e), & (f)
False Imprisonment - 609.255, subd. 3
Fleeing Peace Officer (substantial bodily harm) - 609.487, subd. 4(c)
Injury of an Unborn Child in Commission of Crime - 609.268, subd. 2
Malicious Punishment of Child (substantial bodily harm) - 609.377
Negligent Fires - 609.576, subd. 1 (a)
Perjury - 290.53, subd. 4; 300.61; & 609.48, subd. 4(2)
Precious Metal Dealers, Receiving Stolen Goods ($301 - $2,500) - 609.526 (1)&(2)
Receiving Stolen Goods (over $2,500) - 609.53
Receiving Stolen Property (firearm) - 609.53
Security Violations (over $2,500) - 80A.22, subd. 1; 80B.10, subd. 1; 80C.16, subd. 3(a) & (b)
Sports Bookmaking - 609.75, subd. 7
Tax Evasion - 290.53, subd. 4 & 11
Tax Withheld at Source; Fraud (over $2,500) - 290.92 subd. 15(4) & (11); 290A.11, subd. 2
Terroristic Threats - 609.713, subd. 1
Theft Crimes - Over $2,500 *(See Theft Offense List)*
Theft from Person - 609.52
Theft of Controlled Substances - 609.52, subd. 3(2)
Theft of Motor Vehicle - 609.52, subd. 3(3) (d) (*vi*)
Use of Drugs to Injure or Facilitate Crime - 609.235

III

Accidents - 169.09, subd. 14(a) (2)
Arson 3 - 609.563
Check Forgery (over $2,500) - 609.631, subd. 4(2)
Coercion - 609.27, subd. 1(1)
Coercion (over $2,500) - 609.27, subd. 1(2), (3), (4), & (5)
Criminal Vehicular Homicide and Injury - 609.21, subd. 2a
Damage to Property - 609.595, subd. 1 (1)
Dangerous Smoking - 609.576, subd. 2
Dangerous Trespass, Railroad Tracks - 609.85(1)
Dangerous Weapons - 609.67, subd. 2; 624.713, subd. 1(b)
Depriving Another of Custodial or Parental Rights - 609.26, subd. 6 (2)
Escape from Custody - 609.485, subd. 4(1)
False Imprisonment - 609.255, subd. 2
False Traffic Signal - 609.851, subd. 2
Intentional Release of Harmful Substance - 624.732, subd. 2
Motor Vehicle Use without Consent - 609.52, subd. 2 (17)
Negligent Discharge of Explosive - 299F.83
Possession of Burglary Tools - 609.59
Possession of Shoplifting Gear - 609.521
Prostitution (Patron) - 609.324, subd. 1(c)
Receiving Profit Derived from Prostitution - 609.323, subd. 2
Receiving Stolen Goods ($2,500 or less) - 609.53
Security Violations (under $2,500) - 80A.22, subd. 1; 80B.10, subd. 1; 80C.16, subd. 3(a) & (b)
Solicitation of Children to Engage in Sexual Conduct - 609.352, subd. 2
Solicitation of Prostitution - 609.322, subd. 2
Tax Withheld at Source; Fraud ($301 - $2,500) - 290.92, subd. 25(4) & (11); 290A.11, subd. 2

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III
- Tear Gas & Tear Gas Compounds - 624.731, subd. 8
- Theft Crimes - $2,500 or less *(See Theft Offense List)*
- Theft of Controlled Substances - 609.52, subd. 3(3) (b)
- Theft of a Firearm - 609.52, subd. 3(3) (d) (v)
- Theft of Public Records - 609.52
- Theft Related Crimes - Over $2,500 *(See Theft Related Offense List)*
- Unauthorized Presence at Camp Ripley - 609.396, subd. 2

II
- Accidents - 169.09, subd. 14(a)(3) & (b)(1)
- Aggravated Forgery (misc) (non-check) - 609.625; 609.635; 609.64
- Check Forgery ($200 - $2,500) - 609.631, subd. 4(3) (a)
- Coercion ($300 - $2,500) - 609.27, subd. 1(2), (3), (4), & (5)
- Controlled Substance in the Fifth Degree - 152.025
- Damage to Property - 609.595, subd. 1(2), (3), & (4)
- Failure to Affix Stamp on Remaining Schedule I, II, & III Non-Narcotics - 297D.09, subd. 1
- Firearm Silencer - 609.66, subd. 1a (1)
- Negligent Fires (damage greater than $10,000) - 609.576, subd. 1 (b) (3)
- Precious Metal Dealers, Regulatory Provisions - 325F.743
- Riot - 609.71
- Telecommunications Fraud - 609.893, subd. 2
- Terroristic Threats - 609.713, subd. 2
- Theft-Looting - 609.52
- Theft Related Crimes - $2,500 or less *(See Theft Related Offense List)*

I
- Accidents - 169.09, subd. 14(b)(2)
- Assault 3 - 609.223, subd. 2
- Assault 4 - 609.2231, subd. 1
- Assaults Motivated by Bias - 609.2231, subd. 4 (b)
- Aiding Offender to Avoid Arrest - 609.495
- Bullet-Resistant Vest During Commission of Crime - 609.486
- Cable Communication Systems Interference - 609.80, subd. 2
- Check Forgery (less than $200) - 609.631, subd. 4(3)(b)
- Criminal Damage to Property Motivated by Bias - 609.595, subd. 1a, (a)
- Depriving Another of Custodial or Parental Rights - 609.26, subd. 6 (1)
- Discharge of Firearm - 609.66, subd. 1a (3)
- Escape from Custody - 609.485, subd. 4(2)
- Failure to Affix Stamp on Marijuana/Hashish/Tetrahydrocannabinols - 297D.09,subd.1
- Failure to Affix Stamp on Schedule IV Substances - 297D.09, subd. 1
- Financial Transaction Card Fraud - 609.821, subd. 2(3) & (4)
- Fleeing a Police Officer - 609.487, subd. 3
- Forgery - 609.63; and Forgery Related Crimes *(See Forgery Related Offense List)*
- Furnishing Firearm to Minor - 609.66, subd. 1a (2)
- Leaving State to Evade Establishment of Paternity - 609.31
- Nonsupport of Wife or Child - 609.375, subd. 2, 3, & 4
- Sale of Simulated Controlled Substance - 152.097
- Unlawful Acts Involving Liquor - 340A.701
- Solicitation of Prostitution - 609.322, subd. 3
- Terroristic Threats - 609.713, subd. 3(a)
- Voting Violations - 201.014; 201.016; 201.054

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A question of life or death

The death penalty is an example of the ultimate power of government, the taking of life. Its existence as a means of punishment is a decision that each society makes. The death penalty has been rejected in many countries, but is allowed in 37 states in the United States.

Although the Eighth Amendment to the U.S. Constitution protects individuals from cruel and unusual punishment, the U.S. Supreme Court has held that the death penalty is not cruel and unusual because a majority of Americans accept the death penalty as the proper punishment for the most vicious crime against society-first degree murder.

However, states that choose to use the death penalty must provide by law a procedure that does not automatically impose the death penalty on every defendant convicted of a capitol crime. This procedure or ***"due process"*** is required by the Fourteenth Amendment which provides that life cannot be taken without due process of law.

This lesson will explore the death penalty debate by having students examine their own attitudes to its use, by studying the process that is required by the Constitution, and by considering difficult applications.

Students will:

1. Understand criminal rights and liberties guaranteed in the United States Constitution.
2. Understand the importance of these rights in public decision-making and how the law limits governmental actions.
3. Understand the judicial process and how judicial decisions regarding use of the death penalty are made.

Materials needed: Copies of **Student Handout: WHAT IS YOUR OPINION OF THE DEATH PENALTY?,**
Student Handout: IS THE DEATH PENALTY CONSTITUTIONAL?, and
Student Handout: A SENTENCE OF DEATH?

Time needed: 2 class periods

Grade level: Grades 9-12

Procedure:

1. Ask students what is the "stiffest" penalty for a crime committed in Minnesota? (Mandatory life without parole) Is this true for all states? (37 states have capital punishment) Should Minnesota have

Procedure cont.

the death penalty? (Minnesota abolished the death penalty in 1911 but in the 1988-89 legislative session, a death penalty bill was introduced in the Senate but failed to pass.)

2. Distribute **Student Handout: WHAT IS YOUR OPINION OF THE DEATH PENALTY?** Ask students to complete the survey individually and save for later. This exercise will familiarize students with arguments on both sides of the death penalty.

3. Divide the students into two groups. Give each group a short period of time to prepare to debate the statement: ***"In some cases, state and federal governments should be able to impose the death penalty for persons convicted of first degree murder."*** Ask one group to represent persons supporting the death penalty and one group to represent those people opposing its use. What are the arguments for and against the death penalty? What rights support your position? Discuss the need to balance the public's right to protection and the accused's right to be treated fairly. Would the death penalty tip the scales too far in any one direction?

4. After the debate, have students reread their answers to the opinion poll and see if they would change any of their answers.

5. Discuss the constitutionality of the death penalty. Ask students to read the **Student Handout: IS THE DEATH PENALTY CONSTITUTIONAL?** Discuss the following questions:

A. Do you agree with the Supreme Court that the death penalty is not ***"cruel and unusual punishment?"*** Are there circumstances where it might be?

B. What facts about a crime and a defendant would be ***aggravating circumstances***? (prior record of defendant, lack of sorrow, viciousness of the crime, etc.)

C. What facts about a crime and a defendant would be ***mitigating circumstances***? (absence of any prior record, defendant's age, mental retardation, regret, etc.)

D. Ask the students if the jury should consider facts about the victim, (the victim was a good member of the community, regularly attending church, or victim was an alleged member of organized crime).

Explain to students that the U.S. Supreme Court has ruled (in *South Carolina v. Gathers*) that the personal characteristics of the murder victim, when unrelated to the crime itself, should not be considered by the jury in deciding whether to sentence the defendant to death.

6. Divide the class into small groups and using the **Student Handout: A SENTENCE OF DEATH?** ask each group to roleplay the sentencing jury in the hypothetical case. The students are to apply the following capitol punishment statute:

After finding the defendant guilty of murder in the first degree, the jury shall look at the circumstances of the crime, and at the character of the defendant. If it finds the ***aggravating circumstances*** of

Procedure cont.

the crime and the defendant outweigh the ***mitigating circumstances,*** it shall return a recommendation of the death penalty. Otherwise, it shall recommend life imprisonment.

Remind the students that the defendant in the case has already been convicted of first degree murder and that it is their responsibility to decide the sentence. **They only have two choices: life imprisonment or the death penalty.**

7. Instruct the students to make a list of ***mitigating circumstances*** (those which call for mercy) and a list of ***aggravating circumstances*** (those which make the crime violent or repulsive). Jurors should then compare one list with the other. If mitigating circumstances outweigh the aggravating circumstances, they are to recommend life imprisonment. If the aggravating circumstances outweigh the mitigating circumstances, they are to recommend death.

8. Ask each jury to share its decision with the entire class, summarizing how the group reached its decision. The recommendation does not need to be unanimous.

9. Complete the lesson by asking students to consider the statement: "Juries have the same power as the executioner in death penalty cases." Do they agree or disagree? How would they act if they were a juror in a death penalty case? Would it influence their finding of guilt?

Student Handout: WHAT IS YOU OPINION OF THE DEATH PENALTY?

The death penalty is a very controversial issue. The statements below describe some common attitudes toward capital punishment. As you begin to think about this subject, read each statement below and circle your reaction:

SA (strongly agree)	**SD** (strongly disagree)
A (agree)	**D** (disagree)
UD (undecided).	

1. Killing people who commit murder keeps other people from doing the same thing.
SA **A** **SD** **D** **UD**

2. A person who commits murder or some other serious crime should pay with his or her own life.
SA **A** **SD** **D** **UD**

3. "An eye for an eye and a tooth for a tooth" is what justice means.
SA **A** **SD** **D** **UD**

4. Taxpayers should not be expected to pay for the upkeep of prisoners who have committed murder.
SA **A** **SD** **D** **UD**

5. Some people cannot be allowed in society because they are too dangerous. These people should be executed.
SA **A** **SD** **D** **UD**

6. Anyone who places value on human life cannot approve capital punishment.
SA **A** **SD** **D** **UD**

7. People are basically evil and must be punished for wrongdoing or they will continue to do wrong.
SA **A** **SD** **D** **UD**

8. "Thou shalt not Kill" means that even criminals should not be executed.
SA **A** **SD** **D** **UD**

9. People are basically good and even the worst criminal can be rehabilitated.
SA **A** **SD** **D** **UD**

10. People are a mixture of good and bad and it's hard to make a final decision about anyone. This means capital punishment is wrong.
SA **A** **SD** **D** **UD**

11. Unless a person admits to a crime, it is impossible to be absolutely certain that she or he committed the crime. The jury might have made a mistake.
SA **A** **SD** **D** **UD**

Student Handout: IS THE DEATH PENALTY CONSTITUTIONAL?

Does the death penalty violate the Eighth Amendment's prohibition against "cruel and unusual" punishment? Is there a taking of "life. . .without due process of law" contrary to the Fourteenth Amendment? These questions have been presented many times to the U.S. Supreme Court as state death penalty statutes are challenged in court.

A landmark Supreme Court decision, ***Gregg v. Georgia***, concluded that the death penalty is not cruel and unusual punishment nor does it violate due process if certain procedures are followed.

By a 7-2 majority, the U.S. Supreme Court declared that states could impose the death pealty as a punishment for first-degree murder. Because a majority of Americans accepted the death penalty as the proper punishment for the most vicious crime against society, first-degree murder, it was not "cruel and unusual" punishment.

However, some state laws regarding the method by which defendants were chosen to receive the death penalty violated the Fourteenth Amendment's "due process" clause. These were laws that automatically imposed the death sentence for every defendant convicted of a capital crime. Jurors had no choice about the penalty and were unable to consider circumstances about the crime that might warrant the more lenient sentence of life imprisonment.

The type of death penalty law that was constitutional in the ***Gregg*** case required juries, after finding a defendant guilty of first degree murder, to make a second decision on whether or not to impose the death penalty after considering everything about the defendant and the crime. This would include both the ***aggravating*** circumstances, or those things about the crime and the defendant which make it a cruel and vicious act, and the ***mitigating*** circumstances of the crime and defendant, or those things which call for mercy and leniency on the part of the jurors. Jurors are to balance the two types of circumstances and recommend the death penalty only if the aggravating circumstances outweigh the mitigating ones.

The Court said this process provided juries with enough freedom in their choice between the death penalty and life imprisonment to satisfy the due process requirements of the Fourteenth Amendment. It also prevented arbitrary decision-making by giving guidance to juries on how to make their decision.

Student Handout: A SENTENCE OF DEATH?

You are a member of the jury. You have found the defendant guilty of first degree murder. You now must decide the defendant's sentence by applying the following law:

After finding the defendant guilty of murder in the first degree, the jury shall look at the circumstances of the crime, and at the character of the individual defendant. If it finds the aggravating circumstances of the crime and the defendant outweigh the mitigating circumstances, it shall return a recommendation of the death penalty. Otherwise, it shall recommend life imprisonment.

Name: Larry Wilson
Age: 16
Sex: Male

Larry has been in and out of juvenile facilities since the age of eight for various acts of burglary, theft and arson, had attempted to kill his mother by poisoning Tylenol capsules, and had killed several animals in his neighborhood. A psychiatrist diagnosed Larry as having a personality disorder but that he could tell right from wrong.

On July 25, 1985 Larry and an accomplice, Allen, planned to rob a convenience store and murder "whoever was behind the counter" because "a dead person can't talk." A 26 year old mother of two was working behind the counter of the convenience store when Larry and Allen robbed the store. Allen held the woman to the floor, while Larry repeatedly stabbed her in the chest. When she begged for her life, Larry stabbed her four more times in the neck. Larry and Allen helped themselves to liquor, cigarettes, rolling papers, and $450 in cash and checks, and left the woman to die on the floor. Larry was sixteen years old at the time.

Larry was certified to stand trial as an adult and entered guilty pleas to first-degree murder and armed robbery.

Sentence _____

CONSTITUTION OF THE STATE OF MINNESOTA

Adopted October 13, 1857.

Generally Revised November 5, 1974

Article 1. Bill of rights
Article 2. Name and boundaries
Article 3. Distribution of the powers of government
Article 4. Legislative department
Article 5. Executive department
Article 6. Judiciary
Article 7. Elective franchise
Article 8. Impeachment and removal from office
Article 9. Amendments to the constitution
Article 10. Taxation
Article 11. Appropriations and finances
Article 12. Special legislation; local government
Article 13. Miscellaneous subjects
Article 14. Public highway system

Preamble

We, the people of the state of Minnesota, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this Constitution

ARTICLE I

BILL OF RIGHTS

Section 1. **Object of government.** Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform government whenever required by the public good.

Sec. 2. **Rights and privileges.** No member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the state otherwise than as punishment for a crime of which the party has been convicted.

Sec. 3. **Liberty of the press.** The liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right.

Sec. 4. **Trial by jury.** The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy. A jury trial may be waived by the parties in all cases in the manner prescribed by law. The legislature may provide that the agreement of five-sixths of a jury in a civil action or proceeding, after not less than six hours' deliberation, is a sufficient verdict.

Sec. 5. **No excessive bail or unusual punishments.** Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Sec. 6. **Rights of accused in criminal prosecutions.** In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law. The accused shall enjoy the right to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel in his defense.

Sec. 7. **Due process; prosecutions; double jeopardy; self-incrimination; bail; habeas corpus.** No person shall be held to answer for a criminal offense without due process of law, and no person shall be put twice in jeopardy of punishment for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived

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of life, liberty or property without due process of law. All persons before conviction shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great. The privilege of the writ of habeas corpus shall not be suspended unless the public safety requires it in case of rebellion or invasion.

Sec. 8. **Redress of injuries or wrongs.** Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character, and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws.

Sec. 9. **Treason defined.** Treason against the state consists only in levying war against the state, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court.

Sec. 10. **Unreasonable searches and seizures prohibited.** The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

Sec. 11. **Attainders, ex post facto laws and laws impairing contracts prohibited.** No bill of attainder, ex post facto law, or any law impairing the obligation of contracts shall be passed, and no conviction shall work corruption of blood or forfeiture of estate.

Sec. 12. **Imprisonment for debt; property exemption.** No person shall be imprisoned for debt in this state, but this shall not prevent the legislature from providing for imprisonment, or holding to bail, persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of any debt or liability. The amount of such exemption shall be determined by law. Provided, however, that all property so exempted shall be liable to seizure and sale for any debts incurred to any person for work done or materials furnished in the construction, repair or improvement of the same, and provided further, that such liability to seizure and sale shall also extend to all real property for any debt to any laborer or servant for labor or service performed.

Sec. 13. **Private property for public use.** Private property shall not be taken, destroyed or damaged for public use without just compensation therefor, first paid or secured.

Sec. 14. **Military power subordinate.** The military shall be subordinate to the civil power and no standing army shall be maintained in this state in times of peace.

Sec. 15. **Lands allodial; void agricultural leases.** All lands within the state are allodial and feudal tenures of every description with all their incidents are prohibited. Leases and grants of agricultural lands for a longer period than 21 years reserving rent or service of any kind shall be void.

Sec. 16. **Freedom of conscience; no preference to be given to any religious establishment or mode of worship.** The enumeration of rights in this constitution shall not deny or impair others retained by and inherent in the people. The right of every man to worship God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any religious or ecclesiastical ministry, against his consent; nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the state, nor shall any money be drawn from the treasury for the benefit of any religious societies or religious or theological seminaries.

Sec. 17. **Religious tests and property qualifications prohibited.** No religious test or amount of property shall be required as a qualification for any office of public trust in the state. No religious test or amount of property shall be required as a qualification of any voter at any election in this state; nor shall any person be rendered incompetent

to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion.

ARTICLE II

NAME AND BOUNDARIES

Section 1. **Name and boundaries; acceptance of organic act.** This state shall be called the state of Minnesota and shall consist of and have jurisdiction over the territory embraced in the act of Congress entitled, "An act to authorize the people of the Territory of Minnesota to form a constitution and state government, preparatory to their admission into the Union on equal footing with the original states," and the propositions contained in that act are hereby accepted, ratified and confirmed, and remain irrevocable without the consent of the United States.

Sec. 2. **Jurisdiction on boundary waters.** The state of Minnesota has concurrent jurisdiction on the Mississippi and on all other rivers and waters forming a common boundary with any other state or states. Navigable waters leading into the same, shall be common highways and forever free to citizens of the United States without any tax, duty, impost or toll therefor.

ARTICLE III

DISTRIBUTION OF THE POWERS OF GOVERNMENT

Section 1. **Division of powers.** The powers of government shall be divided into three distinct departments: legislative, executive and judicial. No person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others except in the instances expressly provided in this constitution.

ARTICLE IV

LEGISLATIVE DEPARTMENT

Section 1. **Composition of legislature.** The legislature consists of the senate and house of representatives.

Sec. 2. **Apportionment of members.** The number of members who compose the senate and house of representatives shall be prescribed by law. The representation in both houses shall be apportioned equally throughout the different sections of the state in proportion to the population thereof.

Sec. 3. **Census enumeration apportionment; congressional and legislative district boundaries; senate districts.** At its first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional and legislative districts. Senators shall be chosen by single districts of convenient contiguous territory. No representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in a regular series.

Sec. 4. **Terms of office of senators and representatives; vacancies.** Representatives shall be chosen for a term of two years, except to fill a vacancy. Senators shall be chosen for a term of four years, except to fill a vacancy and except there shall be an entire new election of all the senators at the first election of representatives after each new legislative apportionment provided for in this article. The governor shall call elections to fill vacancies in either house of the legislature.

Sec. 5. **Restriction on holding office.** No senator or representative shall hold any other office under the authority of the United States or the state of Minnesota, except that of postmaster or of notary public. If elected or appointed to another office, a legislator may resign from the legislature by tendering his resignation to the governor.

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Sec. 6. **Qualification of legislators; judging election returns and eligibility.** Senators and representatives shall be qualified voters of the state, and shall have resided one year in the state and six months immediately preceding the election in the district from which elected. Each house shall be the judge of the election returns and eligibility of its own members. The legislature shall prescribe by law the manner for taking evidence in cases of contested seats in either house.

Sec. 7. **Rules of government.** Each house may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member; but no member shall be expelled a second time for the same offense.

Sec. 8. **Oath of office.** Each member and officer of the legislature before entering upon his duties shall take an oath or affirmation to support the Constitution of the United States, the constitution of this state, and to discharge faithfully the duties of his office to the best of his judgment and ability.

Sec. 9. **Compensation.** The compensation of senators and representatives shall be prescribed by law. No increase of compensation shall take effect during the period for which the members of the existing house of representatives may have been elected.

Sec. 10. **Privilege from arrest.** The members of each house in all cases except treason, felony and breach of the peace, shall be privileged from arrest during the session of their respective houses and in going to or returning from the same. For any speech or debate in either house they shall not be questioned in any other place.

Sec. 11. **Protest and dissent of members.** Two or more members of either house may dissent and protest against any act or resolution which they think injurious to the public or to any individual and have the reason of their dissent entered in the journal.

Sec. 12. **Biennial meetings; length of session; special sessions; length of adjournments.** The legislature shall meet at the seat of government in regular session in each biennium at the times prescribed by law for not exceeding a total of 120 legislative days. The legislature shall not meet in regular session, nor in any adjournment thereof, after the first Monday following the third Saturday in May of any year. After meeting at a time prescribed by law, the legislature may adjourn to another time. "Legislative day" shall be defined by law. A special session of the legislature may be called by the governor on extraordinary occasions.

Neither house during a session of the legislature shall adjourn for more than three days (Sundays excepted) nor to any other place than that in which the two houses shall be assembled without the consent of the other house.

Sec. 13. **Quorum.** A majority of each house constitutes a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of absent members in the manner and under the penalties it may provide.

Sec. 14. **Open sessions.** Each house shall be open to the public during its sessions except in cases which in its opinion require secrecy.

Sec. 15. **Officers; journals.** Each house shall elect its presiding officer and other officers as may be provided by law. Both houses shall keep journals of their proceedings, and from time to time publish the same, and the yeas and nays, when taken on any question, shall be entered in the journals.

Sec. 16. **Elections viva voce.** In all elections by the legislature members shall vote viva voce and their votes shall be entered in the journal.

Sec. 17. **Laws to embrace only one subject.** No law shall embrace more than one subject, which shall be expressed in its title.

Sec. 18. **Revenue bills to originate in house.** All bills for raising revenue shall originate in the house of representatives, but the senate may propose and concur with the amendments as on other bills.

Sec. 19. **Reporting of bills.** Every bill shall be reported on three different days in each house, unless, in case of urgency, two-thirds of the house where the bill is pending deem it expedient to dispense with this rule.

Sec. 20. **Enrollment of bills.** Every bill passed by both houses shall be enrolled and signed by the presiding officer of each house. Any presiding officer refusing to sign a bill passed by both houses shall thereafter be disqualified from any office of honor or profit in the state. Each house by rule shall provide the manner in which a bill shall be certified for presentation to the governor in case of such refusal.

Sec. 21. **Passage of bills on last day of session prohibited.** No bill shall be passed by either house upon the day prescribed for adjournment. This section shall not preclude the enrollment of a bill or its transmittal from one house to the other or to the executive for his signature.

Sec. 22. **Majority vote of all members to pass a law.** The style of all laws of this state shall be: "Be it enacted by the legislature of the state of Minnesota." No law shall be passed unless voted for by a majority of all the members elected to each house of the legislature, and the vote entered in the journal of each house.

Sec. 23. **Approval of bills by governor; action on veto.** Every bill passed in conformity to the rules of each house and the joint rules of the two houses shall be presented to the governor. If he approves a bill, he shall sign it, deposit it in the office of the secretary of state and notify the house in which it originated of that fact. If he vetoes a bill, he shall return it with his objections to the house in which it originated. His objections shall be entered in the journal. If, after reconsideration, two-thirds of that house agree to pass the bill, it shall be sent, together with the governor's objections, to the other house, which shall likewise reconsider it. If approved by two-thirds of that house it becomes a law and shall be deposited in the office of the secretary of state. In such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered in the journal of each house. Any bill not returned by the governor within three days (Sundays excepted) after it is presented to him becomes a law as if he had signed it, unless the legislature by adjournment within that time prevents its return. Any bill passed during the last three days of a session may be presented to the governor during the three days following the day of final adjournment and becomes law if the governor signs and deposits it in the office of the secretary of state within 14 days after the adjournment of the legislature. Any bill passed during the last three days of the session which is not signed and deposited within 14 days after adjournment does not become a law.

If a bill presented to the governor contains several items of appropriation of money, he may veto one or more of the items while approving the bill. At the time he signs the bill the governor shall append to it a statement of the items he vetoes and the vetoed items shall not take effect. If the legislature is in session, he shall transmit to the house in which the bill originated a copy of the statement, and the items vetoed shall be separately reconsidered. If on reconsideration any item is approved by two-thirds of the members elected to each house, it is a part of the law notwithstanding the objections of the governor.

Sec. 24. **Presentation of orders, resolutions, and votes to governor.** Each order, resolution or vote requiring the concurrence of the two houses except such as relate to the business or adjournment of the legislature shall be presented to the governor and is subject to his veto as prescribed in case of a bill.

Sec. 25. **Disorderly conduct.** During a session each house may punish by imprisonment for not more than 24 hours any person not a member who is guilty of any disorderly or contemptuous behavior in its presence.

Sec. 26. **Banking laws; two-thirds votes.** Passage of a general banking law requires the vote of two-thirds of the members of each house of the legislature.

ARTICLE V

EXECUTIVE DEPARTMENT

Section 1. **Executive officers.** The executive department consists of a governor, lieutenant governor, secretary of state, auditor, treasurer and attorney general, who

shall be chosen by the electors of the state. The governor and lieutenant governor shall be chosen jointly by a single vote applying to both offices in a manner prescribed by law.

Sec. 2. **Term of governor and lieutenant governor; qualifications.** The term of office for the governor and lieutenant governor is four years and until a successor is chosen and qualified. Each shall have attained the age of 25 years and, shall have been a bona fide resident of the state for one year next preceding his election, and shall be a citizen of the United States.

Sec. 3. **Powers and duties of governor.** The governor shall communicate by message to each session of the legislature information touching the state and country. He is commander-in-chief of the military and naval forces and may call them out to execute the laws, suppress insurrection and repel invasion. He may require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to his duties. With the advice and consent of the senate he may appoint notaries public and other officers provided by law. He may appoint commissioners to take the acknowledgment of deeds or other instruments in writing to be used in the state. He shall take care that the laws be faithfully executed. He shall fill any vacancy that may occur in the offices of secretary of state, treasurer, auditor, attorney general and the other state and district offices hereafter created by law until the end of the term for which the person who had vacated the office was elected or the first Monday in January following the next general election, whichever is sooner, and until a successor is chosen and qualified.

Sec. 4. **Terms and salaries of executive officers.** The term of office of the secretary of state, treasurer, attorney general and state auditor is four years and until a successor is chosen and qualified. The duties and salaries of the executive officers shall be prescribed by law.

Sec. 5. **Succession to offices of governor and lieutenant governor.** In case a vacancy occurs from any cause whatever in the office of governor, the lieutenant governor shall be governor during such vacancy. The compensation of the lieutenant governor shall be prescribed by law. The last elected presiding officer of the senate shall become lieutenant governor in case a vacancy occurs in that office. In case the governor is unable to discharge the powers and duties of his office, the same devolves on the lieutenant governor. The legislature may provide by law for the case of the removal, death, resignation, or inability both of the governor and lieutenant governor to discharge the duties of governor and may provide by law for continuity of government in periods of emergency resulting from disasters caused by enemy attack in this state, including but not limited to, succession to the powers and duties of public office and change of the seat of government.

Sec. 6. **Oath of office of state officers.** Each officer created by this article before entering upon his duties shall take an oath or affirmation to support the constitution of the United States and of this state and to discharge faithfully the duties of his office to the best of his judgment and ability.

Sec. 7. **Board of pardons.** The governor, the attorney general and the chief justice of the supreme court constitute a board of pardons. Its powers and duties shall be defined and regulated by law. The governor in conjunction with the board of pardons has power to grant reprieves and pardons after conviction for an offense against the state except in cases of impeachment.

ARTICLE VI

JUDICIARY

Section 1. **Judicial power.** The judicial power of the state is vested in a supreme court, a court of appeals, if established by the legislature, a district court and such other courts, judicial officers and commissioners with jurisdiction inferior to the district court as the legislature may establish. [Amended, November 2, 1982]

Sec. 2. **Supreme court.** The supreme court consists of one chief judge and not less than six nor more than eight associate judges as the legislature may establish. It shall have original jurisdiction in such remedial cases as are prescribed by law, and appellate jurisdiction in all cases, but there shall be no trial by jury in the supreme court.

The legislature may establish a court of appeals and provide by law for the number of its judges, who shall not be judges of any other court, and its organization and for the review of its decisions by the supreme court. The court of appeals shall have appellate jurisdiction over all courts, except the supreme court, and other appellate jurisdiction as prescribed by law.

As provided by law judges of the court of appeals or of the district court may be assigned temporarily to act as judges of the supreme court upon its request and judges of the district court may be assigned temporarily by the supreme court to act as judges of the court of appeals.

The supreme court shall appoint to serve at its pleasure a clerk, a reporter, a state law librarian and other necessary employees. [Amended, November 2, 1982]

Sec. 3. **Jurisdiction of district court.** The district court has original jurisdiction in all civil and criminal cases and shall have appellate jurisdiction as prescribed by law.

Sec. 4. **Judicial districts; district judges.** The number and boundaries of judicial districts shall be established in the manner provided by law but the office of a district judge shall not be abolished during his term. There shall be two or more district judges in each district. Each judge of the district court in any district shall be a resident of that district at the time of his selection and during his continuance in office.

Sec. 5. **Qualifications; compensation.** Judges of the supreme court, the court of appeals and the district court shall be learned in the law. The qualifications of all other judges and judicial officers shall be prescribed by law. The compensation of all judges shall be prescribed by the legislature and shall not be diminished during their term of office. [Amended, November 2, 1982]

Sec. 6. **Holding other office.** A judge of the supreme court, the court of appeals or the district court shall not hold any office under the United States except a commission in a reserve component of the military forces of the United States and shall not hold any other office under this state. His term of office shall terminate at the time he files as a candidate for an elective office of the United States or for a nonjudicial office of this state. [Amended, November 2, 1982]

Sec. 7. **Term of office; election.** The term of office of all judges shall be six years and until their successors are qualified. They shall be elected by the voters from the area which they are to serve in the manner provided by law.

Sec. 8. **Vacancy.** Whenever there is a vacancy in the office of judge the governor shall appoint in the manner provided by law a qualified person to fill the vacancy until a successor is elected and qualified. The successor shall be elected for a six year term at the next general election occurring more than one year after the appointment.

Sec. 9. **Retirement, removal and discipline.** The legislature may provide by law for retirement of all judges and for the extension of the term of any judge who becomes eligible for retirement within three years after expiration of the term for which he is selected. The legislature may also provide for the retirement, removal or other discipline of any judge who is disabled, incompetent or guilty of conduct prejudicial to the administration of justice.

Sec. 10. **Retired judges.** As provided by law a retired judge may be assigned to hear and decide any cause over which the court to which he is assigned has jurisdiction.

Sec. 11. **Probate jurisdiction.** Original jurisdiction in law and equity for the administration of the estates of deceased persons and all guardianship and incompetency proceedings, including jurisdiction over the administration of trust estates and for the determination of taxes contingent upon death, shall be provided by law.

Sec. 12. **Abolition of probate court; status of judges.** If the probate court is abolished by law, judges of that court who are learned in the law shall become judges of the court that assumes jurisdiction of matters described in section 11.

Sec. 13. **District court clerks.** There shall be in each county one clerk of the district court whose qualifications, duties and compensation shall be prescribed by law. He shall serve at the pleasure of a majority of the judges of the district court in each district.

ARTICLE VII

ELECTIVE FRANCHISE

Section 1. **Eligibility; place of voting; ineligible persons.** Every person 18 years of age or more who has been a citizen of the United States for three months and who has resided in the precinct for 30 days next preceding an election shall be entitled to vote in that precinct. The place of voting by one otherwise qualified who has changed his residence within 30 days preceding the election shall be prescribed by law. The following persons shall not be entitled or permitted to vote at any election in this state: A person not meeting the above requirements; a person who has been convicted of treason or felony, unless restored to civil rights; a person under guardianship, or a person who is insane or not mentally competent.

Sec. 2. **Residence.** For the purpose of voting no person loses residence solely by reason of his absence while employed in the service of the United States; nor while engaged upon the waters of this state or of the United States; nor while a student in any institution of learning; nor while kept at any almshouse or asylum; nor while confined in any public prison. No soldier, seaman or marine in the army or navy of the United States is a resident of this state solely in consequence of being stationed within the state.

Sec. 3. **Uniform oath at elections.** The legislature shall provide for a uniform oath or affirmation to be administered at elections and no person shall be compelled to take any other or different form of oath to entitle him to vote.

Sec. 4. **Civil process suspended on election day.** During the day on which an election is held no person shall be arrested by virtue of any civil process.

Sec. 5. **Elections by ballot.** All elections shall be by ballot except for such town officers as may be directed by law to be otherwise chosen.

Sec. 6. **Eligibility to hold office.** Every person who by the provisions of this article is entitled to vote at any election and is 21 years of age is eligible for any office elective by the people in the district wherein he has resided 30 days previous to the election, except as otherwise provided in this constitution, or the constitution and law of the United States.

Sec. 7. **Official year of state.** The official year for the state of Minnesota commences on the first Monday in January in each year and all terms of office terminate at that time. The general election shall be held on the first Tuesday after the first Monday in November in each even numbered year.

Sec. 8. **Election returns to secretary of state; board of canvassers.** The returns of every election for officeholders elected statewide shall be made to the secretary of state who shall call to his assistance two or more of the judges of the supreme court and two disinterested judges of the district courts. They shall constitute a board of canvassers to canvass the returns and declare the result within three days after the canvass.

Sec. 9. **Campaign spending limits.** The amount that may be spent by candidates for constitutional and legislative offices to campaign for nomination or election shall be limited by law. The legislature shall provide by law for disclosure of contributions and expenditures made to support or oppose candidates for state elective offices. [Adopted, November 4, 1980]

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ARTICLE VIII

IMPEACHMENT AND REMOVAL FROM OFFICE

Section 1. **Impeachment powers.** The house of representatives has the sole power of impeachment through a concurrence of a majority of all its members. All impeachments shall be tried by the senate. When sitting for that purpose, senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators present.

Sec. 2. **Officers subject to impeachment; grounds; judgment.** The governor, secretary of state, treasurer, auditor, attorney general and the judges of the supreme court, court of appeals and district courts may be impeached for corrupt conduct in office or for crimes and misdemeanors; but judgment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit in this state. The party convicted shall also be subject to indictment, trial, judgment and punishment according to law. [Amended, November 2, 1982]

Sec. 3. **Suspension.** No officer shall exercise the duties of his office after he has been impeached and before his acquittal.

Sec. 4. **Service of impeachment papers.** No person shall be tried on impeachment before he has been served with a copy thereof at least 20 days previous to the day set for trial.

Sec. 5. **Removal of inferior officers.** The legislature of this state may provide for the removal of inferior officers for malfeasance or nonfeasance in the performance of their duties.

ARTICLE IX

AMENDMENTS TO THE CONSTITUTION

Section 1. **Amendments; ratification.** A majority of the members elected to each house of the legislature may propose amendments to this constitution. Proposed amendments shall be published with the laws passed at the same session and submitted to the people for their approval or rejection at a general election. If a majority of all the electors voting at the election vote to ratify an amendment, it becomes a part of this constitution. If two or more amendments are submitted at the same time, voters shall vote for or against each separately.

Sec. 2. **Constitutional convention.** Two-thirds of the members elected to each house of the legislature may submit to the electors at the next general election the question of calling a convention to revise this constitution. If a majority of all the electors voting at the election vote for a convention, the legislature at its next session, shall provide by law for calling the convention. The convention shall consist of as many delegates as there are members of the house of representatives. Delegates shall be chosen in the same manner as members of the house of representatives and shall meet within three months after their election. Section 5 of Article IV of the constitution does not apply to election to the convention.

Sec. 3. **Submission to people of constitution drafted at convention.** A convention called to revise this constitution shall submit any revision to the people for approval or rejection at the next general election held not less than 90 days after submission of the revision. If three-fifths of all the electors voting on the question vote to ratify the revision, it becomes a new constitution of the state of Minnesota.

ARTICLE X

TAXATION

Section 1. **Power of taxation; exemptions; legislative powers.** The power of taxation shall never be surrendered, suspended or contracted away. Taxes shall be uniform upon the same class of subjects and shall be levied and collected for public purposes, but public burying grounds, public school houses, public hospitals, academies, colleges, universities, all seminaries of learning, all churches, church property, houses of worship, institutions of purely public charity, and public property used exclusively for any public purpose, shall be exempt from taxation except as provided in this section. There may be exempted from taxation personal property not exceeding in value $200 for each household, individual or head of a family, and household goods and farm machinery as the legislature determines. The legislature may authorize municipal corporations to levy and collect assessments for local improvements upon property benefited thereby without regard to cash valuation. The legislature by law may define or limit the property exempt under this section other than churches, houses of worship, and property solely used for educational purposes by academies, colleges, universities and seminaries of learning.

Sec. 2. **Forestation.** To encourage and promote forestation and reforestation of lands whether owned by private persons or the public, laws may be enacted fixing in advance a definite and limited annual tax on the lands for a term of years and imposing a yield tax on the timber and other forest products at or after the end of the term.

Sec. 3. **Occupation tax; ores.** Every person engaged in the business of mining or producing iron ore or other ores in this state shall pay to the state an occupation tax on the valuation of all ores mined or produced, which tax shall be in addition to all other taxes provided by law. The tax is due on the first day of May in the calendar year next following the mining or producing. The valuation of ore for the purpose of determining the amount of tax shall be ascertained as provided by law. Funds derived from the tax shall be used as follows: 50 percent to the state general revenue fund, 40 percent for the support of elementary and secondary schools and ten percent for the general support of the university.

Sec. 4. **Motor fuel taxation.** The state may levy an excise tax upon any means or substance for propelling aircraft or for propelling or operating motor or other vehicles or other equipment used for airport purposes and not used on the public highways of this state.

Sec. 5. **Aircraft.** The legislature may tax aircraft using the air space overlying the state on a more onerous basis than other personal property. Any such tax on aircraft shall be in lieu of all other taxes. The legislature may impose the tax on aircraft of companies paying taxes under any gross earnings system of taxation notwithstanding that earnings from the aircraft are included in the earnings on which gross earnings taxes are computed. The law may exempt from taxation aircraft owned by a nonresident of the state temporarily using the air space overlying the state.

Sec. 6. **Taconite taxation.** Laws of Minnesota 1963, Chapter 81, relating to the taxation of taconite and semi-taconite, and facilities for the mining, production and beneficiation thereof shall not be repealed, modified or amended, nor shall any laws in conflict therewith be valid until November 4, 1989. Laws may be enacted fixing or limiting for a period not extending beyond the year 1990, the tax to be imposed on persons engaged in (1) the mining, production or beneficiation of copper, (2) the mining, production or beneficiation of copper-nickel, or (3) the mining, production or beneficiation of nickel. Taxes imposed on the mining or quarrying of taconite or semi-taconite and on the production of iron ore concentrates therefrom, which are in lieu of a tax on real or personal property, shall not be considered to be occupation, royalty, or excise taxes within the meaning of this amendment.

Sec. 7. [Repealed, November 5, 1974]

Sec. 8. **Parimutuel betting.** The legislature may authorize on-track parimutuel betting on horse racing in a manner prescribed by law. [Adopted, November 2, 1982]

ARTICLE XI

APPROPRIATIONS AND FINANCES

Section 1. **Money paid from state treasury.** No money shall be paid out of the treasury of this state except in pursuance of an appropriation by law.

Sec. 2. **Credit of the state limited.** The credit of the state shall not be given or loaned in aid of any individual, association or corporation except as hereinafter provided.

Sec. 3. **Internal improvements prohibited; exceptions.** The state shall not be a party in carrying on works of internal improvements except as authorized by this constitution. If grants have been made to the state especially dedicated to specific purposes, the state shall devote the proceeds of the grants to those purposes and may pledge or appropriate the revenues derived from the works in aid of their completion.

Sec. 4. **Power to contract public debt; public debt defined.** The state may contract public debts for which its full faith, credit and taxing powers may be pledged at the times and in the manner authorized by law, but only for the purposes and subject to the conditions stated in section 5. Public debt includes any obligation payable directly in whole or in part from a tax of state wide application on any class of property, income, transaction or privilege, but does not include any obligation which is payable from revenues other than taxes.

Sec. 5. **Public debt and works of internal improvement; purposes.** Public debt may be contracted and works of internal improvements carried on for the following purposes:

(a) to acquire and to better public land and buildings and other public improvements of a capital nature and to provide money to be appropriated or loaned to any agency or political subdivision of the state for such purposes if the law authorizing the debt is adopted by the vote of at least three-fifths of the members of each house of the legislature;

(b) to repel invasion or suppress insurrection;

(c) to borrow temporarily as authorized in section 6;

(d) to refund outstanding bonds of the state or any of its agencies whether ór not the full faith and credit of the state has been pledged for the payment of the bonds;

(e) to establish and maintain highways subject to the limitations of article XIV;

(f) to promote forestation and prevent and abate forest fires, including the compulsory clearing and improving of wild lands whether public or private;

(g) to construct, improve and operate airports and other air navigation facilities;

(h) to develop the state's agricultural resources by extending credit on real estate security in the manner and on the terms and conditions prescribed by law;

(i) to improve and rehabilitate railroad rights-of-way and other rail facilities whether public or private, provided that bonds issued and unpaid shall not at any time exceed $200,000,000 par value; and

(j) as otherwise authorized in this constitution.

As authorized by law political subdivisions may engage in the works permitted by (f), (g), and (i) and contract debt therefor. [Amended, November 2, 1982]

Sec. 6. **Certificates of indebtedness.** As authorized by law certificates of indebtedness may be issued during a biennium, commencing on July 1 in each odd-numbered year and ending on and including June 30 in the next odd-numbered year, in anticipation of the collection of taxes levied for and other revenues appropriated to any fund of the state for expenditure during that biennium.

No certificates shall be issued in an amount which with interest thereon to maturity, added to the then outstanding certificates against a fund and interest thereon to maturity, will exceed the then unexpended balance of all money which will be credited to that fund during the biennium under existing laws. The maturities of certificates

may be extended by refunding to a date not later than December 1 of the first full calendar year following the biennium in which the certificates were issued. If money on hand in any fund is not sufficient to pay all non-refunding certificates of indebtedness issued on a fund during any biennium and all certificates refunding the same, plus interest thereon, which are outstanding on December 1 immediately following the close of the biennium, the state auditor shall levy upon all taxable property in the state a tax collectible in the ensuing year sufficient to pay the same on or before December 1 of the ensuing year with interest to the date or dates of payment.

Sec. 7. **Bonds.** Public debt other than certificates of indebtedness authorized in section 6 shall be evidenced by the issuance of bonds of the state. All bonds issued under the provisions of this section shall mature not more than 20 years from their respective dates of issue and each law authorizing the issuance of bonds shall distinctly specify the purposes thereof and the maximum amount of the proceeds authorized to be expended for each purpose. The state treasurer shall maintain a separate and special state bond fund on his official books and records. When the full faith and credit of the state has been pledged for the payment of bonds, the state auditor shall levy each year on all taxable property within the state a tax sufficient with the balance then on hand in the fund to pay all principal and interest on bonds issued under this section due and to become due within the ensuing year and to and including July 1 in the second ensuing year. The legislature by law may appropriate funds from any source to the state bond fund. The amount of money actually received and on hand pursuant to appropriations prior to the levy of the tax in any year shall be used to reduce the amount of tax otherwise required to be levied.

Sec. 8. **Permanent school fund; source; investment; board of investment.** The permanent school fund of the state consists of (a) the proceeds of lands granted by the United States for the use of schools within each township, (b) the proceeds derived from swamp lands granted to the state, (c) all cash and investments credited to the permanent school fund and to the swamp land fund, and (d) all cash and investments credited to the internal improvement land fund and the lands therein. No portion of these lands shall be sold otherwise than at public sale, and in the manner provided by law. All funds arising from the sale or other disposition of the lands, or income accruing in any way before the sale or disposition thereof, shall be credited to the permanent school fund. Within limitations prescribed by law, the fund shall be invested to secure the maximum return consistent with the maintenance of the perpetuity of the fund. The principal of the permanent school fund shall be perpetual and inviolate forever. This does not prevent the sale of investments at less than the cost to the fund; however, all losses not offset by gains shall be repaid to the fund from the interest and dividends earned thereafter. The net interest and dividends arising from the fund shall be distributed to the different school districts of the state in a manner prescribed by law.

A board of investment consisting of the governor, the state auditor, the state treasurer, the secretary of state, and the attorney general is hereby constituted for the purpose of administering and directing the investment of all state funds. The board shall not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or the issuer's agent. [Amended, November 6, 1984]

Sec. 9. **Investment of permanent university fund; restrictions.** The permanent university fund of this state may be loaned to or invested in the bonds of any county, school district, city or town of this state and in first mortgage loans secured upon improved and cultivated farm lands of this state, but no such investment or loan shall be made until approved by the board of investment; nor shall a loan or investment be made when the bonds to be issued or purchased would make the entire bonded indebtedness exceed 15 percent of the assessed valuation of the taxable property of the county, school district, city or town issuing the bonds; nor shall any farm loan or investment be made when the investment or loan would exceed 30 percent of the actual cash value of the farm land mortgaged to secure the investment; nor shall investments or loans be made at a lower rate of interest than two percent per annum nor for a shorter period than one year nor for a longer period than 30 years.

Sec. 10. **Exchange of public lands; reservation of rights.** As the legislature may provide, any of the public lands of the state, including lands held in trust for any purpose, may be exchanged for any publicly or privately held lands with the unanimous approval of the governor, the attorney general and the state auditor. Lands so acquired shall be subject to the trust, if any, to which the lands exchanged therefor were subject. The state shall reserve all mineral and water power rights in lands transferred by the state. [Amended, November 6, 1984]

Sec. 11. **Timber lands set apart as state forests; disposition of revenue.** School and other public lands of the state better adapted for the production of timber than for agriculture may be set apart as state school forests, or other state forests as the legislature may provide. The legislature may also provide for their management on forestry principles. The net revenue therefrom shall be used for the purposes for which the lands were granted to the state.

Sec. 12. **County, township or municipal aid to railroads limited.** The legislature shall not authorize any county, township or municipal corporation to become indebted to aid in the construction or equipment of railroads to any amount that exceeds five percent of the value of the taxable property within that county, township or municipal corporation. The amount of taxable property shall be determined by the last assessment previous to the incurring of the indebtedness.

Sec. 13. **Safekeeping state funds; security; deposit of funds; embezzlement.** All officers and other persons charged with the safekeeping of state funds shall be required to give ample security for funds received by them and to keep an accurate entry of each sum received and of each payment and transfer. If any person converts to his own use in any manner or form, or shall loan, with or without interest, or shall deposit in his own name, or otherwise than in the name of the state of Minnesota; or shall deposit in banks or with any person or persons or exchange for other funds or property, any portion of the funds of the state or the school funds aforesaid, except in the manner prescribed by law, every such act shall be and constitute an embezzlement of so much of the aforesaid state and school funds, or either of the same, as shall thus be taken, or loaned, or deposited or exchanged, and shall be a felony. Any failure to pay over, produce or account for the state school funds, or any part of the same entrusted to such officer or persons as by law required on demand, shall be held and be taken to be prima facie evidence of such embezzlement.

ARTICLE XII

SPECIAL LEGISLATION; LOCAL GOVERNMENT

Section 1. **Prohibition of special legislation; particular subjects.** In all cases when a general law can be made applicable, a special law shall not be enacted except as provided in section 2. Whether a general law could have been made applicable in any case shall be judicially determined without regard to any legislative assertion on that subject. The legislature shall pass no local or special law authorizing the laying out, opening, altering, vacating or maintaining of roads, highways, streets or alleys; remitting fines, penalties or forfeitures; changing the names of persons, places, lakes or rivers; authorizing the adoption or legitimation of children; changing the law of descent or succession; conferring rights on minors; declaring any named person of age; giving effect to informal or invalid wills or deeds, or affecting the estates of minors or persons under disability; granting divorces; exempting property from taxation or regulating the rate of interest on money; creating private corporations, or amending, renewing, or extending the charters thereof; granting to any private corporation, association, or individual any special or exclusive privilege, immunity or franchise whatever or authorizing public taxation for a private purpose. The inhibitions of local or special laws in this section shall not prevent the passage of general laws on any of the subjects enumerated.

Sec. 2. **Special laws; local government.** Every law which upon its effective date

applies to a single local government unit or to a group of such units in a single county or a number of contiguous counties is a special law and shall name the unit or, in the latter case, the counties to which it applies. The legislature may enact special laws relating to local government units, but a special law, unless otherwise provided by general law, shall become effective only after its approval by the affected unit expressed through the voters or the governing body and by such majority as the legislature may direct. Any special law may be modified or superseded by a later home rule charter or amendment applicable to the same local government unit, but this does not prevent the adoption of subsequent laws on the same subject. The legislature may repeal any existing special or local law, but shall not amend, extend or modify any of the same except as provided in this section.

Sec. 3. **Local government; legislation affecting.** The legislature may provide by law for the creation, organization, administration, consolidation, division and dissolution of local government units and their functions, for the change of boundaries thereof, for their elective and appointive officers including qualifications for office and for the transfer of county seats. A county boundary may not be changed or county seat transferred until approved in each county affected by a majority of the voters voting on the question.

Sec. 4. **Home rule charter.** Any local government unit when authorized by law may adopt a home rule charter for its government. A charter shall become effective if approved by such majority of the voters of the local government unit as the legislature prescribes by general law. If a charter provides for the consolidation or separation of a city and a county, in whole or in part, it shall not be effective without approval of the voters both in the city and in the remainder of the county by the majority required by law.

Sec. 5. **Charter commissions.** The legislature shall provide by law for charter commissions. Notwithstanding any other constitutional limitations the legislature may require that commission members be freeholders, provide for their appointment by judges of the district court, and permit any member to hold any other elective or appointive office other than judicial. Home rule charter amendments may be proposed by a charter commission or by a petition of five percent of the voters of the local government unit as determined by law and shall not become effective until approved by the voters by the majority required by law. Amendments may be proposed and adopted in any other manner provided by law. A local government unit may repeal its home rule charter and adopt a statutory form of government or a new charter upon the same majority vote as is required by law for the adoption of a charter in the first instance.

ARTICLE XIII

MISCELLANEOUS SUBJECTS

Section 1. **Uniform system of public schools.** The stability of a republican form of government depending mainly upon the intelligence of the people, it is the duty of the legislature to establish a general and uniform system of public schools. The legislature shall make such provisions by taxation or otherwise as will secure a thorough and efficient system of public schools throughout the state.

Sec. 2. **Prohibition as to aiding sectarian school.** In no case shall any public money or property be appropriated or used for the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or other religious sect are promulgated or taught.

Sec. 3. **University of Minnesota.** All the rights, immunities, franchises and endowments heretofore granted or conferred upon the university of Minnesota are perpetuated unto the university.

Sec. 4. **Lands taken for public way or use; compensation; common carriers.** Land may be taken for public way and for the purpose of granting to any corporation the

franchise of way for public use. In all cases, however, a fair and equitable compensation shall be paid for land and for the damages arising from taking it. All corporations which are common carriers enjoying the right of way in pursuance of the provisions of this section shall be bound to carry the mineral, agricultural and other productions of manufacturers on equal and reasonable terms.

Sec. 5. **Prohibition of lotteries.** The legislature shall not authorize any lottery or the sale of lottery tickets.

Sec. 6. **Prohibition of combinations to affect markets.** Any combination of persons either as individuals or as members or officers of any corporation to monopolize markets for food products in this state or to interfere with, or restrict the freedom of markets is a criminal conspiracy and shall be punished as the legislature may provide.

Sec. 7. **No license required to peddle.** Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor.

Sec. 8. **Veterans' bonus.** The state may pay an adjusted compensation to persons who served in the armed forces of the United States during the period of the Vietnam conflict. Whenever authorized and in the amounts and on the terms fixed by law, the state may expend monies and pledge the public credit to provide money for the purposes of this section. The duration of the Vietnam conflict may be defined by law.

Sec. 9. **Militia organization.** The legislature shall pass laws necessary for the organization, discipline and service of the militia of the state.

Sec. 10. **Seat of government.** The seat of government of the state is in the city of St. Paul. The legislature may provide by law for a change of the seat of government by a vote of the people, or may locate the same upon the land granted by Congress for a seat of government. If the seat of government is changed, the capitol building and grounds shall be dedicated to an institution for the promotion of science, literature and the arts to be organized by the legislature of the state. The Minnesota Historical Society shall always be a department of this institution.

Sec. 11. **State seal.** A seal of the state shall be kept by the secretary of state and be used by him officially. It shall be called the great seal of the state of Minnesota.

ARTICLE XIV

PUBLIC HIGHWAY SYSTEM

Section 1. **Authority of state; participation of political subdivisions.** The state may construct, improve and maintain public highways, may assist political subdivisions in this work and by law may authorize any political subdivision to aid in highway work within its boundaries.

Sec. 2. **Trunk highway system.** There is hereby created a trunk highway system which shall be constructed, improved and maintained as public highways by the state. The highways shall extend as nearly as possible along the routes number 1 through 70 described in the constitutional amendment adopted November 2, 1920, and the routes described in any act of the legislature which has made or hereafter makes a route a part of the trunk highway system.

The legislature may add by law new routes to the trunk highway system. The trunk highway system may not exceed 12,200 miles in extent, except the legislature may add trunk highways in excess of the mileage limitation as necessary or expedient to take advantage of any federal aid made available by the United States to the state of Minnesota.

Any route added by the legislature to the trunk highway system may be relocated or removed from the system as provided by law. The definite location of trunk highways numbered 1 through 70 may be relocated as provided by law but no relocation shall cause a deviation from the starting points or terminals nor cause any deviation from the various villages and cities through which the routes are to pass under the

constitutional amendment adopted November 2, 1920. The location of routes may be determined by boards, officers or tribunals in the manner prescribed by law.

Sec. 3. **County state-aid highway system.** A county state-aid highway system shall be constructed, improved and maintained by the counties as public highways in the manner provided by law. The system shall include streets in municipalities of less than 5,000 population where necessary to provide an integrated and coordinated highway system and may include similar streets in larger municipalities.

Sec. 4. **Municipal state-aid street system.** A municipal state-aid street system shall be constructed, improved and maintained as public highways by municipalities having a population of 5,000 or more in the manner provided by law.

Sec. 5. **Highway user tax distribution fund.** There is hereby created a highway user tax distribution fund to be used solely for highway purposes as specified in this article. The fund consists of the proceeds of any taxes authorized by sections 9 and 10 of this article. The net proceeds of the taxes shall be apportioned: 62 percent to the trunk highway fund; 29 percent to the county state-aid highway fund; nine percent to the municipal state-aid street fund. Five percent of the net proceeds of the highway user tax distribution fund may be set aside and apportioned by law to one or more of the three foregoing funds. The balance of the highway user tax distribution fund shall be transferred to the trunk highway fund, the county state-aid highway fund, and the municipal state-aid street fund in accordance with the percentages set forth in this section. No change in the apportionment of the five percent may be made within six years of the last previous change.

Sec. 6. **Trunk highway fund.** There is hereby created a trunk highway fund which shall be used solely for the purposes specified in section 2 of this article and the payment of principal and interest of any bonds issued under the authority of section 11 of this article and any bonds issued for trunk highway purposes prior to July 1, 1957. All payments of principal and interest on bonds issued shall be a first charge on money coming into this fund during the year in which the principal or interest is payable.

Sec. 7. **County state-aid highway fund.** There is hereby created a county state-aid highway fund. The county state-aid highway fund shall be apportioned among the counties as provided by law. The funds apportioned shall be used by the counties as provided by law for aid in the construction, improvement and maintenance of county state-aid highways. The legislature may authorize the counties by law to use a part of the funds apportioned to them to aid in the construction, improvement and maintenance of other county highways, township roads, municipal streets and any other public highways, including but not limited to trunk highways and municipal state-aid streets within the respective counties.

Sec. 8. **Municipal state-aid street fund.** There is hereby created a municipal state-aid street fund to be apportioned as provided by law among municipalities having a population of 5,000 or more. The fund shall be used by municipalities as provided by law for the construction, improvement and maintenance of municipal state-aid streets. The legislature may authorize municipalities to use a part of the fund in the construction, improvement and maintenance of other municipal streets, trunk highways, and county state-aid highways within the counties in which the municipality is located.

Sec. 9. **Taxation of motor vehicles.** The legislature by law may tax motor vehicles using the public streets and highways on a more onerous basis than other personal property. Any such tax on motor vehicles shall be in lieu of all other taxes thereon, except wheelage taxes imposed by political subdivisions solely for highway purposes. The legislature may impose this tax on motor vehicles of companies paying taxes under the gross earnings system of taxation notwithstanding that earnings from the vehicles may be included in the earnings on which gross earnings taxes are computed. The proceeds of the tax shall be paid into the highway user tax distribution fund. The law may exempt from taxation any motor vehicle owned by a nonresident of the state properly licensed in another state and transiently or temporarily using the streets and highways of the state.

Sec. 10. **Taxation of motor fuel.** The legislature may levy an excise tax on any means or substance used for propelling vehicles on the public highways of this state or on the business of selling it. The proceeds of the tax shall be paid into the highway user tax distribution fund.

Sec. 11. **Highway bonds.** The legislature may provide by law for the sale of bonds to carry out the provisions of section 2. The proceeds shall be paid into the trunk highway fund. Any bonds shall mature serially over a term not exceeding 20 years and shall not be sold for less than par and accrued interest. If the trunk highway fund is not adequate to pay principal and interest of these bonds when due, the legislature may levy on all taxable property of the state in an amount sufficient to meet the deficiency or it may appropriate to the fund money in the state treasury not otherwise appropriated. [Amended, November 2, 1982]